

Possess MDMA (ecstasy) with intent to sell or supply

s 6(1)(a) and 6(1)(c) *Misuse of Drugs Act*

From 1 January 2014

Transitional Sentencing Provisions: Each of the two tables is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

methyl	methylamphetamine
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
wiss	with intent to sell or supply
imp	imprisonment
susp	suspended
immed	immediate
conc	concurrent
cum	cumulative
PG	plea guilty
ct	count
TES	total effective sentence
EFP	eligible for parole
SIO	suspended imprisonment order
UCO	undercover police operative

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
36.	<i>Ramsden v The State of Western Australia</i> <i>[2019] WASCA 179</i> <i>Delivered 15/11/2019</i>	<p>27 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Appellant one of four children; parents separated when aged 4 yrs.</p> <p>Completed Year 10.</p> <p>Regularly employed in various occupations; work injury and later surgery led to online gambling habit.</p> <p>Prior traffic related offences.</p>	<p>Ct 1: Poss MDMA wiss 309.71g of 11-24% purity. Ct 2: Poss unlawfully obtained money. Ct 3: Poss methyl wiss 49.98g of 78-80% purity.</p> <p>Ramsden was stopped by police driving his motor vehicle. A search of his car revealed clipseal bags containing small amounts of methyl and ecstasy. He was also found to be carrying \$5,085 cash in his pocket.</p> <p>A search of Ramsden's home located a total of 309.71g of ecstasy in both tablet and powder form. Empty capsules were also located. Estimated value was between \$36,054 and \$51,950.</p> <p>A further quantity of methyl in three clipseal bags were discovered inside a hot water unit in a locked storage room. Estimated value was between \$19,600 and \$24,500.</p> <p>Digital scales, clipseal bags, a food saver machine, money counting machine and multiple mobile phones were also found. A further \$40,850 in cash was located in his bedroom.</p>	<p>Ct 1: 6 yrs 3 mths imp. Ct 2: 15 mths imp (conc). Ct 3: 4 yrs imp (cum).</p> <p>TES 7 yrs 6 mnths imp.</p> <p>EFP.</p> <p>The trial judge found it was clear from the amount and purity of the drugs; the circumstances of their location, together with the large sum of money in the appellant's possession that he was involved in the distribution of drugs at least at the mid-level.</p> <p>The trial judge noted that the appellant's 'participation was for commercial reasons'. And further 'You may well have used drugs, but your profits, no doubt, went some considerable way to funding, not only your gambling habit, but also your lifestyle'.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and sentencing on an incorrect factual basis.</p> <p>At [43] ... the appellant was engaged in the commercial dealing of significant quantities of both methyl and ecstasy ... while there were a number of mitigating factors personal to the appellant, those factors carry less weight in light of the significance of general deterrence as a relevant sentencing consideration.</p> <p>At [45] ... it is not reasonably arguable that either the individual sentences or the TES imposed on the appellant were unreasonable or plainly unjust. Inferred error is not able to be established.</p>

<p>35.</p>	<p><i>Gallagher v The State of Western Australia</i></p> <p>[2019] WASCA 108</p> <p>Delivered 07/08/2019</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after early PG (22% discount).</p> <p>No prior criminal history.</p> <p>Married; two young children; no contact with 18 yr old son earlier relationship.</p> <p>Almost completed Bachelor degree.</p> <p>Good employment history.</p> <p>Gambling and substance abuse problems.</p>	<p><u>Indictment 24</u> Ct 1: Att poss cocaine wiss 4.98g. Ct 2: Att poss MDMA wiss 6.93g. Ct 3: Poss cocaine wiss 10.28g.</p> <p><u>Indictment 1167</u> Cts 1; 3-11: Stealing as a servant. Cts 2 & 12: Att stealing as a servant.</p> <p><u>Indictment 24</u> A parcel, address to Gallagher and containing cocaine and MDMA, was intercepted at an Australia Post office.</p> <p>A controlled delivery of the parcel was made to his home address. It was collected from his mailbox.</p> <p>The same day a search warrant was executed at Gallagher's address. The unopened parcel was located in his garage. His laptop contained material relating to the purchase of the drugs from the 'dark web', including a recent order for quantities of MDMA and cocaine.</p> <p>Gallagher also declared possession of three quantities of cocaine in his vehicle, of which he was to retain half for his own use and supply the other half to a co-purchaser (ct 3).</p>	<p><u>Indictment 24</u> Ct 1: 10 mths imp (conc). Ct 2: 10 mths imp (conc). Ct 3: 14 mths imp (conc).</p> <p><u>Indictment 1167</u> Cts 1 & 2: 4 mths imp (conc). Cts 3 & 6: 2 mths imp (conc). Cts 4-5 & 7-9: 8 mths imp (conc). Ct 10: 18 mths imp (cum). Ct 11: 12 mths (conc). Ct 12: 6 mths imp (conc).</p> <p>TES 2 yrs 8 mths imp.</p> <p>EFP.</p> <p><u>Indictment 1167</u> The sentencing judge found the offending had some degree of sophistication and deception and there was a degree of significant premeditation.</p> <p>Appellant genuinely remorseful; steps taken to address his substance abuse problems.</p>	<p>Dismissed.</p> <p>Appeal concerned early plea discount and type of sentence imposed.</p> <p>At [26] ... in all the circumstance ... it is appropriate to allow a discount of 22% in respect of the drug offences ... we consider the discount given ... to be appropriate in all the circumstances, including the time at which the appellant indicated he would PG to the drug offence. We also agree ... that a discount of 22% ... is appropriate in respect of the stealing offences.</p> <p>At [29] The drug offences were not at the upper end of seriousness on the scale of offending of this type. The quantities involved were relatively low, and the only supply was to a co-purchaser. Nevertheless, any poss of quantities of dangerous drugs with an intention to sell or supply them to another is a serious offence.</p>
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34.	Higgins v The State of Western Australia	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after late PG (15%</p>	<p>Cts 1-3; 9-11; 13-14; 17; 21; 26: Offer to sell MDMA.</p> <p>Cts 4-5; 8; 12; 15-16; 18-19; 24; 28; 31-32; 35-36: Offer to sell anabolic</p>	<p>Ct 1: 12 mths imp (cum). Ct 2; 21 & 37: 2 yrs imp (conc). Cts 3; 9-11; 13; 17 & 26:</p>	<p>Dismissed.</p> <p>Appeal concerned error in law (plea discount) and parity</p>

<p>[2019] WASCA 78</p> <p>Delivered 21/05/2019</p>	<p>discount) (cts 10, 11, 37, 38 and 40). Convicted after PG (18% discount) (other 35 counts).</p> <p>Born in England; moved to Ireland aged 12 yrs; no family in WA.</p> <p>Completed yr 12 in Ireland.</p> <p>Employed construction industry on leaving school; lost job during Irish recession; struggled financially; commenced drinking heavily.</p> <p>Moved to Australia 2012-2013; gained work; reduced alcohol consumption; commenced bodybuilding.</p> <p>Problematic use of performance enhancing drugs; injecting six-seven times per day; cost of habit increasing to thousands of dollars per week; resulting financial stress; began offending as a means of making up the shortfall between his income and expenses.</p> <p>Ceased drug use following</p>	<p>steroids. Cts 6-7; 25; 30: Offer to sell testosterone. Ct 20; 22-23; 27; 29; 33-34: Offer to sell human growth hormones. Cts 37 & 38: Sold methyl 13.6g at 75% purity & 55.7g at 75% purity. Ct 39: Offer to sell cocaine 255g (for \$67,500). Ct 40: Sold methyl 89.3g at 82% purity & 900g at 84% purity.</p> <p>Intercepted mobile telephone calls revealed Higgins offered to sell quantities of MDMA, anabolic steroids, testosterone and human growth hormones to others. Higgins was also seen meeting a customer and receiving money for the sale of MDMA pills (cts 1-36).</p> <p>Higgins began communicating with an UCO and supplied him with methyl and cocaine on four separate occasions (cts 37-40).</p> <p>Higgins communicated with a co-accused Mr MacDonald, knowing he was able to source very large quantities of methyl.</p> <p>The UCO informed the appellant he was interested in purchasing 1 kg of</p>	<p>12 mths imp (conc). Cts 4-7; 14; 16; 20; 27; 33 & 35: 3 mths imp (conc). Ct 8: 6 mths imp (cum). Cts 12; 15; 18-19; 22-25; 28-32; 34 & 36: 6 mths imp (conc). Ct 38: 3 yrs imp (conc). Ct 39: 3 yrs imp (cum). Ct 40: 8 yrs imp (cum). TES 12 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant's offending very serious; he dealt with large volumes of various prohibited drugs for commercial gain.</p> <p>The sentencing judge found the appellant's actions were 'deliberate, repeated and persistent'; the quantity, purity and value of the drugs involved significant and some involved substantial quantities; others were involved in the offences</p>	<p>principle.</p> <p>At [181] ... bearing in mind the extent of the delay in the pleas, ... the discount of 18% was well within the range of an appropriate exercise of discretion. ...</p> <p>At [133] ... bearing in mind the strength of the state case, the discount of 16% applied to cts 10, 11, 37, 38 and 40, to which the appellant PG only after committal for trial ... can fairly be said to be generous.</p> <p>At [187]-[188] ... Mr Woodcock's role in the sale of the methyl was undoubtedly higher in the chain of supply hierarchy than the appellant's. In that respect, Mr Woodcock's offence reflected a high degree of culpability and yet the appellant received a higher sentence ... Against this, however, is the appellant's offending in relation to ct 40 involved a high degree of persistence over a lengthy period of time. ... the appellant engaged in discussions with the</p>
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		arrest.	<p>methyl. Mr MacDonald informed the UCO his supplier could provide the 1 kg of methyl for \$192,500. Higgins was present during this discussion and he discussed this proposed purchase with the UCO on further occasions. Higgins acted as the go-between between the UCO and Mr MacDonald. When the deal did not come to fruition Higgins indicated to the UCO he may be able to source the drug elsewhere.</p> <p>Higgins then contacted the co-accused Mr Costa Ramirez. Mr Costa Ramirez and the UCO discussed the purchased of methyl, along with a co-accused Mr Perlin. Some days later Mr Costa Ramirez and Mr Perlin sold 989.3 g of methyl to the UCO in exchange for \$180,000. A further co-offender Mr Woodcock supplied the methyl and was present during this transaction.</p>	<p>and he was motivated by commercial gain.</p> <p>Demonstrated remorse; cooperative; steps taken towards rehabilitation.</p>	<p>UCO with a view to a sale of 1 kg of methyl. ... the appellant pursued and facilitated the sale that ultimately was ct 40. ...</p> <p>At [191] ... While Mr Costa Ramirez's offending might fairly be seen as somewhat more serious than the appellant's, that is comfortably accommodated by the 1 yr higher sentence imposed on Mr Costa Ramirez.</p>
33.	<p><i>EDU v The State of Western Australia</i></p> <p>[2019] WASCA 55</p> <p>Delivered 05/04/2019</p>	<p>42 yrs at time sentencing.</p> <p><u>Ind X</u> Convicted after PG (20% discount).</p> <p><u>Ind Y</u> Convicted after PG 25% discount).</p> <p>Extensive prior criminal history; substantial record for drug;</p>	<p><u>Ind X</u> Ct 1: Poss methyl wiss 24.87g at 40%-44% purity.</p> <p><u>Ind Y</u> Ct 1: Poss methyl wiss 27.4g at 63% purity. Ct 2: Poss MDA wiss 3.6g (20 tablets) at 9% purity.</p> <p><u>Ind X</u></p>	<p><u>Ind X</u> 2 yrs 3 mths imp.</p> <p><u>Ind Y</u> Ct 1: 3 yrs imp (cum sentence on ind X). Ct 2: 12 mths imp (conc).</p> <p>TES 5 yrs 3 mths imp. EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [33] ... It is sufficient to note that the TES imposed on the appellant is broadly consistent with the sentencing pattern for offences of the kind he committed, ...</p>

		<p>dishonesty and traffic offences.</p> <p>Reasonably good childhood; father died when aged 9 yrs.</p> <p>Performed well at school; completed Yr 12; tertiary studies.</p> <p>Regularly employed when not in prison.</p> <p>Single at time sentencing; no dependants.</p> <p>Heavy drug user; entrenched addiction.</p>	<p>Police stopped EDU driving a motor vehicle. A search revealed clipseal bags containing methyl hidden in a sock down the front of his pants.</p> <p><u>Ind Y</u> The offences the subject of this indictment were committed when on bail for the offence the subject of Ind X.</p> <p>Police approached EDU carrying a bag. He att to hide the bag and then fled. He was apprehended after a chase.</p> <p>The bag was found to contain quantities of methyl and MDA tablets. Also found in the bag was 97g of the cutting agent MSM; digital scales, clipseal bags and a 'tick list' on his mobile phone.</p>	<p>The sentencing judge found the appellant was actively involved in the sale or supply of methyl on a wide and regular basis; he engaged in the offending for commercial purposes; he had ready access to significant quantities of methyl and he was a user/dealer in the upper mid-level of the drug distribution chain.</p> <p>Some demonstrated remorse; significant risk of reoffending.</p>	<p>At [34] The appellant's overall offending was very serious. ... The appellant was a dealer, as well as a user, in the upper mid-level of the drug distribution chain. The offending was for commercial purposes. ...</p> <p>At [35] ... the egregiousness of the offences the subject of ind Y was aggravated in that, when he committed those offences, the appellant was on bail for the offence the subject of ind X. ...</p>
32.	<p><i>Tran v The State of Western Australia</i></p> <p>[2019] WASCA 50</p> <p>Delivered 22/03/2019</p>	<p>25 yrs at time offending. 27 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Prior criminal history; at time offending subject of District Court SIO (12 mths imp, suspended 2 yrs).</p>	<p><u>Ind</u> Ct 1: Att poss MDMA wiss 33.1g at 27% purity. Ct 2: Poss unlawfully obtained property (\$2,280).</p> <p><u>Breach SIO</u> 1 x Extortion</p> <p><u>Ind</u></p>	<p><u>Ind</u> Ct 1: 4 yrs imp (conc). Ct 2: 3 mths imp (conc).</p> <p><u>Breach SIO</u> 12 mths imp (cum ct 1).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned error of fact and length of sentence.</p> <p>At [76] ... The appellant attempted to conceal his activities by using the darknet and by making payments via Bitcoin, plainly with the</p>

		<p>One of three children; close and supportive family.</p> <p>Completed university degree.</p> <p>Constant work history; well-regarded employee.</p> <p>Long term relationship; plans to marry.</p> <p>Senior martial arts instructor; national level lion dancer.</p> <p>Occasional recreational user of MDMA.</p>	<p>A parcel marked for delivery to Tran's address was intercepted by Australia Post. The parcel was seized when it was found to contain 100 MDMA pills (ct 1).</p> <p>A search warrant executed at Tran's home located \$2,280 in cash (ct 2). Also found were one 251 N-bomb pill and small quantities of a prohibited drug. Scales with a residue of MDMA and empty clipseal bags were also located.</p> <p>A computer at the home showed Tran had accessed the Australia Post tracking website and he had made enquiries in relation to the parcel, which had the same tracking number as that seized.</p> <p>Tran's computer and mobile phone showed he had purchased Bitcoin and had enabled access to the darknet. In a one-month period he had made Bitcoin transactions worth \$7,000.</p> <p><u>Breach SIO</u> Tran was part of an Asian gang who, along with other members, assisted an outlaw motorcycle gang in targeting a business, over a long period of time, with extensive demands for substantial</p>	<p>The sentencing judge found the appellant was a dealer in MDMA and the drugs the subject of ct 1 were intended for sale to his circle of friends and acquaintances; ct 1 was not an isolated incident and the degree of his participation in the distribution of drugs into the community was at the very least not insignificant.</p> <p>The sentencing judge found the appellant's offending involved the use of the darknet and the anonymity it provided, demonstrated his criminal conduct was calculated and well organised.</p> <p>The sentencing judge had regard to the fact the appellant committed the offences on the ind only days after he was placed on the susp term; the offences on the ind and the breach of SIO 'two</p>	<p>intention of making his wrongdoing more difficult to detect. These measures may be properly characterised as sophisticated. ... it may fairly be said that the offending was brazen.</p> <p>At [85] ... The darknet and Bitcoin were used to anonymise, and thus to conceal, the appellant's actions. It is evident from the web searches undertaken by the appellant and the WhatsApp chats that the appellant deliberately sought out the ... MDMA pills and that he did so with the intention of selling them ...</p> <p>At [86] ... the appellant stood to gain commercially from the sale of the pills, at least to the extent that he was able to fund his own consumption of the drug. The fact that the appellant had such an intention does not detract from the commercial nature of the offence ...</p> <p>At [87] The offending took place against the background that the appellant had, in the</p>
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			<p>sums of money.</p> <p>Tran attended the premises with the principal offenders on three separate occasions. He was described 'as a follower' who played 'only a peripheral role' in the offending.</p>	<p>very distinct and separate courses of conduct, both of which were serious.</p> <p>No demonstrated remorse and no responsibility for his wrongdoing.</p>	<p>past, sold or supplied prohibited drugs to others. ... the fact that ct 1 was committed against the background of previous drug dealing underscores the need for personal deterrence. ...</p> <p>At [88] There were favourable aspects to the appellant's personal circumstances, but when weighed against the fact that ct 1 was committed while the appellant was subject to the SIO and the need for personal and general deterrence, their weight is limited. ...</p>
31.	<p><i>Carlucci v The State of Western Australia</i></p> <p>[2019] WASCA 37</p> <p>Delivered 22/02/2019</p>	<p>38 yrs at time offending. 40 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>Minor criminal history; prior drug offences incurring fine penalties.</p> <p>Three siblings; subjected to traumatic incidents aged 7-8 yrs; discovered not her father's biological daughter aged 20 yrs.</p> <p>Completed yr 10; good work history.</p>	<p>Cts 1 & 4: Poss methyl wiss 108.7 g and 123.9 g (total 232.6 g) at 71-89% purity. Ct 2: Poss MDMA wiss 2.72 g Ct 3: Poss unlawfully obtained property (\$33,690).</p> <p><u>Ct 1</u> A search warrant was executed at an address, where Carlucci was living in an old bus.</p> <p>Inside the bus three bags of methyl bundled together were located. The bags contained 27.4 g, 27.3 g and 27.4 g of methyl. A further bundle containing 26.6 g of methyl was also</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 1 yr imp (conc). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 5 yrs imp (cum).</p> <p>TES 8 yrs imp. EFP.</p> <p>The sentencing judge found the offending a serious example of its type; the appellant was dealing in high quantities of methyl of high purity; she was mid to high level in the drug hierarchy and</p>	<p>Allowed.</p> <p>Appeal concerned totality principle.</p> <p>Individual sentences not disturbed. Resentenced:</p> <p>Ct 1: 3 yrs imp (cum). Ct 2: 1 yr imp (conc). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 5 yrs imp (cum). To commence after serving 18 mths of sentence for ct 1.</p> <p>TES 6 yrs 6 mths imp. EFP.</p>

		<p>One long-term relationship; married 6 yrs; separated aged 28 yrs; one child from union.</p> <p>History of recreational methyl use; increased drug use in att to cope with imp of sister; eventually smoking methyl daily; commenced selling methyl to pay drug debts.</p> <p>Unemployment and living in a car at time offending.</p> <p>No history of mental illness.</p>	<p>found.</p> <p>Carlucci admitted during the search she had obtained the methyl 'on tick' and she believed the drug was worth about \$40,000.</p> <p>The accused was charged and released on bail.</p> <p><u>Cts 2 - 4</u> Approximately 7 months later Carlucci was stopped by police driving a motor vehicle. A search of the vehicle located bundles of \$50 and \$100 notes, totalling \$33,690 in cash.</p> <p>Smoking implements, mobile phones, sets of scales and clipseal bags were also found inside the vehicle.</p> <p>The next day a further search of Carlucci's vehicle was undertaken. Drug detection dogs located a box, secreted in the driver's door, containing 123.9 g of methyl in twelve clipseal bags, along with 0.5 g of MDMA powder and eight MDMA tablets, weighing a total of 2.72 g.</p>	<p>was motivated principally by commercial gain.</p> <p>The sentencing judge found an aggravating feature was the offences the subject of cts 2 - 4 were committed while she was on bail for the offence the subject of ct 1.</p> <p>Some demonstrated remorse and acceptance of responsibility.</p>	<p>At [50] The appellant's offending was undoubtedly very serious. She persisted in conducting a drug-dealing business involving the sale of significant quantities of methyl for commercial gain. The sentencing judge correctly regarded the fact that cts 2 – 4 were committed while on bail as a significant aggravating feature of the offence. ...</p> <p>At [52] ... the TES ... is disproportionate ... While the scale of her business was significant, the appellant's parlous circumstances at the time of the offending indicated that the cash which is generated for her personal benefit was limited. Her drug dealing, conducted from her car, did not have the level of sophistication of the operations in a number of the cases to which we have referred. It was relevant to note that the appellant had pleaded guilty, and the psychiatrist assessed her amphetamine use disorder as being in extended remission. She did not have a</p>
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					serious prior record, and there appeared to be some prospect of rehabilitation. Having regard to all of the circumstances ... it was not open to the sentencing judge to conclude that a sentence of 8 yrs' imp bore a proper relationship to the overall criminality involved in all of the offences. ...
30.	<p><i>The State of Western Australia v Egeland</i></p> <p>[2018] WASCA 228</p> <p>Delivered 12/10/2018</p>	<p>23 yrs at time offending. 25 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Dysfunctional and traumatic childhood; chronic history of ADHD; significant grief issues on tragic death of his father.</p> <p>Education and peer interactions affected by dyslexia.</p> <p>Stable relationship; supportive family.</p> <p>Very good employment history.</p> <p>History of drug use; drug free for some time.</p>	<p>1 x Poss MDMA wiss 12.35g at 57%-65% purity.</p> <p>Egeland was returning from a music festival when the vehicle in which he was a passenger was stopped by police.</p> <p>A search of the car located a backpack containing 66 capsules of MDMA.</p> <p>The value of the drugs, if sold at about \$25 per capsule, were worth \$1,650.</p> <p>At the time of the offending the average purity of MDMA sold in WA ranged from about 20% - 60%.</p> <p>Also located in the backpack were perforated paper sheets infused with the illicit drug NBOMe.</p> <p>A search warrant executed at</p>	<p>16 mths imp, susp 12 mths.</p> <p>The trial judge found the respondent was actively engaged in the social drug culture but was not an established or significant dealer; he would occasionally sell drugs to friends from his personal stock.</p> <p>The trial judge found the respondent acquired the capsules as an impulse buy at the festival; there was no evidence that he was selling drugs at the festival; the acquisition of the capsules indicated it was not a planned purchase by an organised</p>	<p>Dismissed - Mazza & Mitchell JJA (Buss P dissenting).</p> <p>Appeal concerned error of fact (respondent deeply remorseful) and length of sentence.</p> <p>At [73] ... the respondent's offending was serious. It involved poss wiss ... of MDMA with a high degree of purity. The respondent was a dealer as well as a user of the drug. Although ... the respondent's acquisition of the MDMA capsules was opportunistic and impulsive, ... he was not averse to selling or supplying at least some of the MDMA capsules and there was a probability that many of the capsules would be distributed to others. ... It was not suggested</p>

			<p>Egeland's home located two empty vacuum sealed bags, a vacuum sealer machine and some cannabis. Also found were more perforated papers sheets infused with NBOMe, a set of electronic scales and two containers with empty pill capsules.</p> <p>Egeland's mobile phone was seized and was found to contain a message asking for 'a tab or two if you still have some'.</p> <p>Egeland admitted possession of the drug but denied any intent to sell or supply them.</p>	<p>dealer, it was opportunistic and impulsive and the offending was unsophisticated and was not part of an organised business involving the sale of illegal drugs.</p> <p>The trial judge was satisfied the respondent would not reoffend and a term of imp to be served immediately would be extremely counter-productive and an appalling set-back.</p> <p>Accepted responsibility for his offending; deeply remorseful; demonstrated commitment to counselling; 'unusually high prospects of rehabilitation'.</p>	<p>(and it could not reasonably have been suggested) that the respondent would have distributed the MDMA capsules, which he intended to supply, gratuitously to others. The only reasonable inference, ... is that [he] would have supplied them for some modest monetary or other benefit.</p> <p>At [128] It is difficult to accept that an offender is genuinely remorseful if he or she continues to main their innocence. While ... the respondent admitted that he possessed the MDMA, he denied and continues to deny that he did so with an intent to sell or supply to another. ...</p> <p>At [129]-[130] ... we do not think it could reasonably be said that the respondent was deeply remorseful for the offending of which he was convicted. Thus, we accept the appellant's submission that his Honour erred in so finding. ... However, ... we would not regard [the] error as a material error because, given the way in which the sentencing judge reasoned, the</p>
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					<p>finding did not affect the sentencing outcome. ...</p> <p>At [171] ... the criminality involved in this case is towards the lower level of offences of this type.</p> <p>At [180] ... While his Honour's decision to impose conditionally susp imp was undoubtedly lenient, we are not satisfied that it was unreasonable or plainly unjust. ... the nature and circumstances of the offence were not so serious as to necessarily make anything other than an immediate term of imp an inappropriate sentencing option.</p>
29.	<p>MRSA v The State of Western Australia</p> <p>[2018] WASCA 217</p> <p>Delivered 07/12/2018</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Parents divorced when aged 9-10 yrs old; one of three children to the union; two older half-brothers.</p> <p>Mother in new abusive relationship; partner imp for</p>	<p>2 x Supply MDMA 11.2g at 7% purity and 44.6g at 8% purity.</p> <p>MRSA was approached in a nightclub by an UCO who asked him to get him some pills. MRSA agreed and they subsequently met and exchanged drugs for cash.</p> <p>On one occasion MRSA met the UCO and supplied him with 50 MDMA tablets in exchange for \$1,100 cash (ct 1).</p>	<p>Ct 1: 6 mths imp (cum). Ct 2: 2 yrs imp (cum).</p> <p>TES 2 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant the principal offender in the drug dealing; he was not a mediator, he was the drug dealer who supplied the drugs in exchange for</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 2 and error in sentencing discount on account of remorse.</p> <p>At [41] ... on the whole of the material before the sentencing judge, it was well open to her Honour not to be satisfied that the appellant should be given a significant discount for remorse.</p>

		<p>assaulting her; resulting witness protection program created significant instability and separation from his father.</p> <p>Struggled but completed high school.</p> <p>Employed labouring roles; good work record.</p> <p>Supportive partner.</p> <p>Undergoing counselling; periods of anxiety and depressive symptoms.</p>	<p>On another occasion MRSA met the UCO and supplied him with 200 MDMA tablets in exchange for \$3,800 cash (ct 2).</p>	<p>cash.</p> <p>The sentencing judge found the appellant appreciated the seriousness of what he was doing and rejected the suggestion he was motivated by a desire to ingratiate himself with a new friend (UCO).</p> <p>Some genuine remorse; but no proper recognition of the harm to the wider community in what he had done.</p>	<p>At [42] ... The existence of some evidence of remorse does not compel a judge to accept that an offender is remorseful.</p> <p>At [47] The judge did not overlook what was said in the references relied on by the appellant. The judge rightly concluded that the weight to be given to those references was diminished by the appellant's continuing attempts to justify his actions, blame the UCO to some extent, and deny his appreciation of the seriousness of his offending.</p> <p>At [57] MDMA is a harmful illicit drug which has the same high level of seriousness as methyl, cocaine and heroin.</p> <p>At [59] The appellant's offending involved commercial drug dealing in which the appellant was the principal offender and not, as he claimed, a mediator. His offending in relation to ct 2 was not an isolated offence or an aberration in that, by then, the appellant</p>
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					<p>had committed ct 1. The appellant evidently had access to sources with substantial quantities of MDMA. ...</p> <p>At [64] ... the sentence of 2 yrs immediate imp cannot be said to reveal implied error. The sentence was not unreasonable or plainly unjust. ...</p>
28.	<p>Clarke v The State of Western Australia</p> <p>[2018] WASCA 190</p> <p>Delivered 29/10/2018</p>	<p>31 yrs at time offending. 33 yrs at time sentencing.</p> <p>Convicted late after PG (5% discount).</p> <p>Prior criminal history; including convictions for drug possession and firearms and weapons offences; prior sentence of imp.</p> <p>Stable, secure and loving childhood; youngest of three children; toddler when parents separated; close relationship with his mother and step-father.</p> <p>Completed yr 10; reasonable grades; excelled in sport.</p> <p>Commenced but did not complete an apprenticeship; employed building and mining</p>	<p>Cts 1; 7; 10 & 12: Poss firearm. Cts 2; 6 & 9: Poss money suspected of being unlawfully obtained. Ct 4: Poss methyl wiss 28.54g at 82%-83% purity. Ct 5: Poss MDMA wiss 314.64g at 84% purity. Cts 8 & 11: Poss ammunition.</p> <p>Clarke was stopped by police riding his motorcycle, having initially sought to evade them. He was found in poss of a loaded 9 mm pistol and \$31,180.05 cash (cts 1 & 2). He was also found to be carrying two Blackberry phones, a mobile phone and a smoking implement.</p> <p>Whilst on bail for cts 1 and 2 a motor cycle travelling at excessive speed was tracked by the police air wing to Clarke's home. Police attended the house to locate the rider. A search of</p>	<p>Ct 1: 2 yrs 6 mths imp (cum). Cts 2; 8 & 11: 6 mths imp (conc). Ct 4: 2 yrs 4 mths imp (conc). Ct 5: 5 yrs imp (cum). Ct 6: 1 yr 6 mths imp (cum). Cts 7 & 12: 2 yrs imp (conc). Ct 9: 8 mths imp (conc). Ct 10: 1 yr imp (cum).</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was a high level drug dealer and drug user; the drug dealing business in which</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [68] ... the appellant was charged with offences committed on three separate occasions, committed over a period of between six and seven mths. Some degree of accumulation of the sentences imposed was therefore warranted. ... more significantly, the appellant committed offences on two separate occasions while he was on bail for the charges the subject of cts 1 and 2. ... The appellant's continued determined offending, over a period of six to seven months,</p>

		<p>industries number of yrs.</p> <p>Lived and worked QLD five yrs; returned to WA to support step-father diagnosed with cancer; relationship with partner ending at this time; no children.</p> <p>History of amphetamine use; regular drug habit aged 21 yrs; drug free about five yrs; relapsed into drug-use following loss of step-father after six months illness and loss of support of his partner.</p>	<p>the home located large quantities of drugs, cash and a loaded handgun. Methyl, comprising three separate quantities of 4.43g, 17.9g and 4.24g, and three further quantities between 0.27g and 0.97g were located in the house (ct 4).</p> <p>A vacuum sealed bag of MDMA powder weighing 313.82g was also located, along with a further 0.82g secreted inside a blowtorch (ct 5).</p> <p>A room in the home and been set up as a drug preparation area. This room contained scales, clipseal bags, a spoon and the monitor for a CCTV surveillance system installed at the home. A number of mobile phones and Blackberries were also located.</p> <p>A total of \$198,450.50 in cash was also found in six locations around the house (ct 6).</p> <p>Also located was a .22 handgun with 10 live rounds of ammunition (cts 7 & 8).</p> <p>Clarke fled the house by jumping a rear fence before he could be apprehended.</p>	<p>he was engaged was a commercial enterprise and enabled him to support a comfortable lifestyle; in addition to the cash the subject of the charges, he admitted he had made \$90,404.50 profit in six months.</p> <p>The sentencing judge found the appellant's involvement in the distribution of drugs was substantial and his conduct in dealing in drugs was persistent, his apprehension had not deterred him from engaging in that conduct.</p> <p>The sentencing judge found the appellant's repeated firearms offences as very serious, and his repetition of those offences as a particularly grave matter; his possession of guns while participating in drug dealing activities was especially serious.</p>	<p>meant that the overall criminality of his offending was of a very serious kind, and was far more serious than the individual offences, considered in isolation, ...</p> <p>At [77] ... offences of poss of prohibited drugs wiss, were, of themselves, very serious, having regard to the quantity and purity of the drugs involved. In addition, the MDMA was found in powder form, which suggests that it could be cut and pressed into tablets or put into capsules for wider distribution. ... The amount of cash, the firearms and ammunition, and the appellant's admissions, confirmed that he was engaged in a successful and profitable drug dealing business. The appellant's ability to obtain firearms of the kind involved here, ... also suggested a high level of involvement in drug-dealing.</p> <p>At [78] ... the offences of poss of unlicensed firearms and ammunition were, of themselves, very serious offences. The appellant's poss of</p>
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			<p>Several weeks later police returned to Clarke's home and executed a search warrant. On this occasion a total of \$11,223.55 in cash was located (ct 9).</p> <p>A 9 mm semi-automatic handgun and a magazine containing 11 rounds of ammunition were also found hidden in the house (cts 10 & 11).</p> <p>A dismantled semi-automatic 12-gauge shotgun was also found (ct 12).</p> <p>Various other items consistent with drug-dealing were found in the house on this occasion, including three Blackberries and two mobile phones.</p>	<p>The sentencing judge found the appellant's continued offending while on bail an aggravating factor.</p> <p>Remorseful; accepted responsibility for his offending; willing to undertake treatment for substance abuse; good prospects for rehabilitation.</p>	<p>the handguns was especially serious, because of the capacity to conceal them. Ct 1 was a particularly serious instance of that conduct, because the appellant had a loaded handgun ... which suggests that he took the gun with him when he was engaged in drug-dealing activities. ... The seriousness of that conduct was exacerbated by the inherent risk of injury or death generated by carrying firearms in such circumstances.</p> <p>At [79] ... the offences were not committed in an isolated incident of criminal conduct and could not be characterised as an aberration. ...</p>
27.	<p><i>Kirkup v The State of Western Australia</i></p> <p>[2018] WASCA 102</p> <p>Delivered 29/06/2018</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Parents separated aged 5 yrs; little contact with father.</p> <p>Supportive family and friends.</p>	<p>1 x Sold MDMA 34.31g at 40%-45% purity.</p> <p>At a pre-arranged location Kirkup met with a person and agreed to sell him a quantity of MDMA. Unbeknown to Kirkup he was an UCO.</p> <p>Kirkup gave the UCO two bags of MDMA powder for \$4,000 cash. One bag contained 7.01g at 45% purity and the other 27.3g at 40% purity.</p>	<p>18 mths imp.</p> <p>EFP.</p> <p>The sentencing judge accepted the offence was an isolated act of offending and that the appellant committed the offence in order to clear the drug debt he had incurred.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned type and length of sentence.</p> <p>At [25] The appellant's offending stemmed from his long-term use of MDMA. ...</p> <p>At [26] ... personal deterrence remained relevant and was an important sentencing consideration. ...</p>

		<p>Completed yr 12.</p> <p>Consistent employment.</p> <p>Illicit drug use from aged 19-20 yrs.</p>		<p>The sentencing judge found the offence so serious that only a term of imp was appropriate.</p> <p>Positive steps taken towards rehabilitation; remorseful; acceptance of responsibility and demonstrated insight into his offending.</p>	<p>At [31] ... The ‘one-off’ nature of the offending does not mean the offending was not serious. In order for the appellant to commit the offence, he contacted his supplier and arranged for the provision of a reasonably substantial quantity of MDMA ... The fact that the appellant’s offending was motivated by a desire to repay a drug debt does not detract from the commercial nature of the sale, and is in no way mitigating.</p> <p>At [32] ... The purity of the MDMA sold by the appellant was reasonably high.</p>
26.	<p><i>Leckie v The State of Western Australia</i></p> <p>[2018] WASCA 91</p> <p>Delivered 12/06/2018</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>Prior minor criminal history NT and QLD; traffic related history WA.</p> <p>Previously performed poorly under supervision.</p> <p>Normal and stable childhood.</p>	<p>Ct 1: Att poss MDA wiss 99.2g at 8% - 12% purity.</p> <p>Ct 2: Poss MDMA wiss 2.43g at 85% purity.</p> <p><u>Ct 1</u></p> <p>An envelope containing 314 tablets was intercepted at an Australia Post facility. The tablets were replaced with an inert substance and the envelope conveyed to the addressed person. On delivery Leckie accepted the envelope and acknowledged it was</p>	<p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 12 mths imp (cum).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the material on the appellant’s phone constituted evidence of his involvement in the drug world; he was selling</p>	<p>Dismissed.</p> <p>Appeal concerned length of individual sentences and totality principle.</p> <p>At [39] ... the seriousness of the appellant’s offending was elevated by the fact that it was part of an ongoing busy commercial operation in respect of both the MDA and the MDMA. While the sentencing</p>

		<p>Served armed forces 4-5 yrs; dishonourably discharged; personal trainer and labouring roles since.</p> <p>Prior bitter family dispute with former partner; denied access to young daughter.</p> <p>Suffers from depression.</p> <p>History of heavy gambling and excessive drinking; MDMA user.</p>	<p>intended for him.</p> <p>A search of his home located the partially opened envelope. Also located were unused resealable bags, a list of drug values and a document of drug codes. Leckie's mobile phone also evidenced the sale of prohibited drugs and that he was regularly dealing in 'grams, eight-balls and double eight-balls'.</p> <p>The tablets were worth between \$9,420 and \$6,280 if sold individually.</p> <p><u>Ct 2</u> Also found were 24 capsules of MDMA in two clip-seal bags.</p>	<p>MDA on a commercial basis for profit and not just to fund a drug habit.</p> <p>Overwhelming case; little or no remorse; no demonstrated understanding of impact of drug dealing on wider community.</p>	<p>judge appropriately took account of the low purity of the MDA which the appellant att to possess, the appellant had no way of knowing the purity before taking possession of the tablets.</p> <p>At [40] ... it cannot be concluded that either the individual sentences or the TES imposed on the appellant were unreasonable or plainly unjust.</p>
25.	<p>Hollingsworth v The State of Western Australia</p> <p>[2018] WASCA 47</p> <p>Delivered 10/04/2018</p>	<p><u>Ind 46</u> 23 yrs at time offending.</p> <p><u>Ind 47</u> 24 yrs at time offending.</p> <p><u>Ind 46</u> Convicted after PG 20% discount) (cts 1 & 2) Convicted after trial (ct 5).</p> <p><u>Ind 47</u> Convicted after PG (25% discount).</p> <p>Minor criminal history.</p>	<p><u>Ind 46</u> Cts 1: Poss MDMA wiss 29.9g at 16% purity. Ct 2: Poss money suspected of being unlawfully obtained. Ct 5: Poss MDMA wiss approx. 1.4kg at 15%-19% purity.</p> <p><u>Ind 47</u> Ct 1: Poss MDMA wiss 148g at 1% purity. Ct 2: Poss methyl wiss 23.5g at 75%-87% purity. Ct 3: Poss money suspected of being unlawfully obtained.</p>	<p><u>Ind 46</u> Ct 1: 2 yrs 4 mths imp (conc). Ct 2: 12 mths imp (conc). Ct 5: 7 yrs 6 mths imp (cum with ct 2 ind 47).</p> <p><u>Ind 47</u> Ct 1: 3 yrs imp (conc). Ct 2: 2 yrs 6 mths imp (cum with ct 5 ind 46). Ct 3: 16 mths imp (conc).</p> <p>TES 10 yrs imp. EFP.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned parity principle (ct 5).</p> <p>At [50] Mr Sims' criminality in ct 5 was of a different, and significantly lesser, quality than the criminality of the appellant. Mr Sims was not the owner of the MDMA. ... Mr Sims' participation was limited to a temporary joint possession with the appellant ... for the purpose of making the tablets available</p>

		<p>Parents separated aged 2 yrs; brought up by his mother and stepfather; both highly supportive.</p> <p>Completed school; did reasonably well.</p> <p>Qualified plumber; stable work number of years; lost job as a result of drug use.</p> <p>No physical health issues.</p> <p>Finding prison psychologically challenging; medicated.</p> <p>History of MDMA use.</p>	<p><u>Ind 46</u> Hollingsworth took a backpack containing 3,488 MDMA tablets and stored them at the home of his co-offender, Mr Sims.</p> <p>The next day Hollingsworth and Mr Sims obtained and stored at the home an altered sawn-off .22 calibre rifle.</p> <p>Later that day Hollingsworth took some of the MDMA tablets from his backpack and he, and Mr Sims, drove to a number of locations intending to sell some of the tablets. Hollingsworth conducted the drug transaction by himself, whilst Mr Sims remained in the vehicle.</p> <p>That afternoon the vehicle was stopped by police. As this occurred Hollingsworth broke one of four mobile phones he had in his vehicle to destroy records of his drug dealing activities.</p> <p>Hollingsworth was searched and found in possession of 105 MDMA tablets (ct 1).</p> <p>\$2,525 cash was also found on his person and in his car (ct 2), along</p>	<p>The sentencing judge found the appellant a significant mid-level to upper-level dealer; engaged for a significant period in an extensive and ongoing course of drug dealing; the offences were not isolated incidents, nor out of character.</p> <p>The sentencing judge found the appellant engaged in drug dealing and committed the offences for profit, to make money over and above what he needed to repay a debt and fund his own addiction.</p> <p>The sentencing judge found the offences the subject of ind 46 very serious; committed as part of an ongoing and significant course of serious criminal conduct and the offences the subject of ind 47 were aggravated by the fact they were committed</p>	<p>for collection from his bedroom by the appellant as and when he required. Mr Sims, ..., was not aware of the precise quantity of the drug. ... his role was very much secondary to that of the appellant.</p> <p>At [51] ... the appellant's antecedents were favourable to him and were more favourable than Mr Sims' antecedents. However, it is well established that, in drug offending of the kind engaged in by the appellant, favourable personal circumstances, ... are subsidiary considerations because of the need to provide for general and personal deterrence.</p> <p>At [52] ... we are satisfied that it is not reasonably arguable that the disparity of three yrs between the sentences imposed on the appellant and Mr Sims for ct 5 infringed the parity principle or the principle of equal justice. The disparity reflected the much more serious criminality of the appellant ...</p>
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			<p>with an exercise book containing a record of his drug dealing business.</p> <p>The same day police executed a search warrant at the home of Mr Sims and discovered Hollingsworth's backpack containing the MDMA tablets, along with the firearm (ct 5).</p> <p><u>Ind 47</u> Some months later police executed a search warrant at Hollingsworth home. Hidden in a number of locations inside the home were MDMA tablets and powder (ct 1) and various quantities of methyl (ct 2).</p> <p>Also found at the home was AU\$21,250 and US\$800 in cash (ct 3).</p>	<p>while on bail for the offences the subject of ind 46.</p> <p>Undertook rehabilitative programmes and educational courses on remand; remorseful; accepted responsibility for his offending; insight into seriousness of his criminal conduct.</p>	
24.	<p><i>Tirkot v The State of Western Australia</i></p> <p>[2018] WASCA 41</p> <p>Delivered 04/04/2018</p>	<p>20 yrs at time offending. 22 yrs at time sentencing.</p> <p>Convicted after PG (10% discount cts 1-23; 25% discount ct 24).</p> <p>No prior criminal history.</p> <p>Strong, supportive and loving family.</p> <p>Private school education; performed well academically;</p>	<p>Cts 1; 3-7; 9-11; 13; 15-16 & 20: Offer to supply MDMA. Cts 2; 8; 12; 14; 17-19 & 21: Offer to supply methyl. Ct 23: Poss MDMA wiss 2.11g. Ct 24: Att poss MDMA wiss 21g at 27% purity.</p> <p>Tirkot was stopped by police driving her motor vehicle.</p> <p>Her mobile phone revealed that over a two-month period Tirkot offered to</p>	<p>Cts 1; 5; 7; 11; 15 & 23: 2 mths imp (conc). Ct 2: 12 mths imp (cum). Cts 3-4; 16 & 20: 6 mths imp (conc). Ct 6: 46 mths imp (head). Ct 8; 10; 18 & 21: 4 mths imp (conc). Cts 9 & 13: 9 mths imp (conc). Cts 12; 14; 17 & 19: 12 mths imp (conc). Ct 24: 5 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 6) and totality principle.</p> <p>At [68] ... The appellant offered to sell ... MDMA pills and ... methyl for prices totalling more than \$42,000. The offers were made in the context of an ongoing and persistent commercial drug operation. ...</p>

		<p>well-accepted by peers and teachers.</p> <p>Completed first yr law; certified personal trainer and beauty therapist.</p> <p>Idolised her father; effected by his death in 2016; significant role in supporting him and her mother during his illness.</p> <p>Loving mother to young child; partner violent and abusive; subsequently abandoned her and his child.</p> <p>Diagnosed with depression and anxiety.</p> <p>No history of illicit drug use.</p>	<p>sell or supply more than 2,850 MDMA pills and more than 10g of methyl for a total price exceeding \$42,400 (cts 1-21).</p> <p>A search of her vehicle located six capsules of MDMA powder (ct 23).</p> <p>At her home a clipseal bag containing 78 tablets of fluoroamphetamine were located (ct 24).</p> <p>Digital scales, a box of clipseal bags, a tick list and clipseal bags containing small quantities of MDMA and fluoroamphetamine were also found at her home.</p>	<p>TES 4 yrs 10 mths imp.</p> <p>The sentencing judge found the appellant a commercial drug dealer, operating at the higher end of the scale, well above street level; was selling drugs to make money and had access to large quantities of drugs.</p> <p>The sentencing judge rejected the submission the appellant was dealing drugs solely or for the benefit of her drug dealer acquaintances.</p> <p>Insight into her offending; genuinely remorseful; low risk of future offending.</p>	<p>motivated by commercial gain. The appellant was a commercial dug dealer, operating at the higher end of the scale, well above street level. ... the appellant had access to large quantities of drugs specially MDMA. In relation to ct 6, ..., although the appellant did not have stock ... she was able to get two quotes from two suppliers for 2,000 pills on the same day.</p> <p>At [80] ... accounting for the scale, persistence and commercial character of the appellant's offending, the TES ... imposed is broadly consistent with the sentencing outcomes in other cases with some comparable features, ...</p>
23.	<p><i>Lenton v The State of Western Australia</i></p> <p>[2017] WASCA 224</p> <p>Delivered 04/12/2017</p>	<p>47 yrs at time sentencing.</p> <p>Convicted after very late PG; first day of trial (5% discount).</p> <p>Long criminal history; prior drug and firearm related offences; prior sentences of imp.</p> <p>Unsettled childhood during period</p>	<p>Ct 1: Reckless driving. Ct 2: Poss MDMA 2.09g. Ct 3: Poss methyl wiss 84.15g at 37%-52% purity. Ct 4: Poss cocaine wiss 1.98g. Ct 5: Poss MDA 0.5g (2 tablets). Ct 6: Agg poss firearm. Ct 7: Fail to obey data access order.</p> <p>Lenton was driving a motorcycle</p>	<p>Ct 1: 12 mths imp (cum). Ct 2: 1 mths imp (conc). Ct 3: 6 yrs imp (head). Ct 4: 6 mths imp (conc). Ct 5: 1 mths imp (conc). Ct 6: 12 mths imp (cum). Ct 7: 6 mths imp (conc).</p> <p>TES 8 yrs imp.</p>	<p>Dismissed.</p> <p>Appeal concerned totality. Individual sentences were not challenged.</p> <p>At [61] The possession of a variety of drugs and a relatively large quantity of cash together with tick lists and a firearm led</p>

		<p>of parents separation aged 2 yrs. Close and supportive family.</p> <p>Attended numerous schools; completed yr 12; completed first yr of university degree.</p> <p>Employed various roles; including intermittent work in family business prior to imp for present offences.</p> <p>Divorced; no dependents.</p> <p>Long history of illicit substance abuse; methyl and cocaine from age 29; periods of abstinence with gradual relapsed into drug use; little effort made to address his substance abuse problems.</p> <p>Medicated and counselled for post-traumatic stress disorder.</p>	<p>when police signalled for him to pull over. He did not do so and instead accelerated and fled from police. The pursuit continued for several km, during which he travelled at high speed and through two red traffic lights.</p> <p>When attempting to evade a second police vehicle he lost control of the motorcycle and was apprehended.</p> <p>Lenton's backpack and satchel were searched. Clipseal bags containing various quantities of MDMA were located (ct 2), along with a container holding various quantities of methyl (ct 3). A clipseal bag of cocaine (ct 4) and two MDA tablets were also found (ct 5).</p> <p>An unlicensed .32 calibre five-shot revolver containing one round of live ammunition was also found (ct 6).</p> <p>Lenton was also found in possession of \$767 cash, \$4,000 cash, a flick knife, four mobile phones; tick lists; a set of electronic scales and a laptop computer. The tick lists listed names, amounts owing (in excess of \$100,000) and references to pounds and ounces.</p>	<p>The sentencing judge found ct 3 the most serious offence and based on the cash; tick lists; weapons; scales and mobile phones found the appellant was actively engaged in commercial drug dealing and that his involvement was at a much higher level than that of a street dealer or person selling drugs to pay for their own consumption.</p>	<p>to the inevitable conclusion that the appellant was playing a significant role in the sale and delivery of prohibited drugs and that this involvement had occurred in the context of a continuing commercial criminal enterprise.</p> <p>At [62] The possession of a loaded firearm was a particularly serious feature of his overall offending ... A cumulative sentence for this offence was necessary to properly reflect the criminality involved in the drug and firearm offences.</p> <p>At [63] The reckless driving also entailed additional criminal behaviour and put the safety of other road users, and the police officers involved, at risk. ... His attempt to explain this conduct as caused by PTSD was rightly viewed as secondary to his desire to avoid discovery of the drugs. A cumulative sentence for this offence was also appropriate.</p> <p>At [64] ... The finding of four</p>
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			<p>The four mobile telephones and laptop were locked and he failed to obey a data access order to reveal the PIN or pass codes for the devices (ct 7).</p>		<p>mobile telephones and a laptop computer in the appellant's possession was consistent with these items being used in connection with the sale of drugs. Data contained on such items may provide evidence of other offences. There is often a strong incentive for offenders in the appellant's position not to comply with a data access order. That incentive should be countered by appropriate deterrent sentences. ...</p> <p>At [71] The TES ... imposed on the appellant bears a proper relationship to the overall criminality involved in all of the offences ...</p>
22.	<p><i>Chadburne v The State of Western Australia</i></p> <p>[2017] WASCA 216</p> <p>Delivered 23/11/2017</p>	<p>45 yrs at time offending. 48 yrs at time sentencing.</p> <p>Convicted after trial (cts 1-4). Convicted after PG (ct 5) (5% discount).</p> <p>Minor NSW criminal history.</p> <p>Raised and lived NSW.</p> <p>Disadvantaged background; father physically and psychologically</p>	<p>Ct 1: Poss MDMA wiss 8.4153kg (34,475 tablets) at 30% purity. Ct 2: Poss methyl wiss 2.046kg at 66%-82% purity. Ct 3: Poss cocaine wiss 482.76g at 76%-77% purity. Ct 4: Poss cocaine wiss 275g at 58% purity. Ct 5: Fail to obey data access order.</p> <p>Chadburne was a member of a syndicate involved in the transportation and supply of large</p>	<p>Ct 1: 14 yrs 6 mths imp. Ct 2: 12 yrs imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 1 yr 6 mths imp (cum). Ct 5: 6 mths imp (cum).</p> <p>TES 16 yrs 6 mths imp.</p> <p>EFP.</p> <p>The trial judge found the offending very serious; it</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 1) and totality principle.</p> <p>At [60] The appellant was more than a mere courier of the drugs. ... The appellant participated in packing the drugs He held face to face discussions with the apparent head of the syndicate. He organised the vehicles used</p>

		<p>abusive.</p> <p>Difficulties at school; expelled yr 9.</p> <p>Strong work ethic; consistently employed as a van/truck driver since aged 20.</p> <p>9 yr relationship; three adult children together; primary carer of his children after separation.</p> <p>Suffered severe depression and stress as a result of his apprehension.</p> <p>Very heavy drinker; occasional user of methyl; denied ongoing use.</p>	<p>quantities of prohibited drugs from NSW into WA.</p> <p>On several occasions Chadburne attended the motor works business of one of the syndicate members. He facilitated the concealment of 15 sealed packages containing drugs into motor vehicle gear transmissions (cts 1-3).</p> <p>The engine transmissions, containing the prohibited drugs, were placed on a pallet into the tray of a utility vehicle, which Chadburne commenced to drive to WA. During the journey he collided with a kangaroo causing substantial damage to the utility. He arranged a replacement vehicle and hire trailer.</p> <p>During the change of vehicles Chadburne located a sixteenth package left on the rear seat of the utility, which unknown to him could not be accommodated into the transmissions. He was given permission to keep this drug so he hid the package inside the wheel arch panelling of the replacement vehicle (ct 4).</p> <p>Chadburne continued his journey and</p>	<p>involved a high level of criminality; the appellant's role was integral to the operation and the crime syndicate of which he was a part of and working with and the offending was committed out of greed and purely for commercial gain.</p> <p>The trial judge found the appellant more than that of a mere courier and it was not a one-off opportunistic attempt.</p> <p>No demonstrable evidence of remorse or insight.</p>	<p>to transport the drugs. This was done as part of an ongoing operation, and could not be regarded as behaviour which was aberrant or out of character for the appellant. The appellant expected to make a substantial profit from the operation.</p> <p>At [64] ... the appellant's actions after the collision with the kangaroo showed that he was able to respond to an unexpected setback with adaptability and initiative. He demonstrated a relatively sophisticated understanding of the implications of finding the package of cocaine on the rear seat ...</p> <p>At [65] ... While the appellant may have been vulnerable to exploitation by others due to his social vulnerability and difficulties with emotional regulation, he knew what he was doing was illegal and appreciated the risks involved.</p> <p>At [66] ... The amount and quality of MDMA in the appellant's possession was</p>
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			<p>eventually arrived in WA where he was stopped by police. The vehicle was seized and the sealed packages hidden within the transmissions located.</p> <p>Chadburne's Blackberry was also seized and he failed to obey a data access order to reveal its pass code. As a result it remained encrypted and inaccessible to police.</p> <p>The drug secreted in the wheel arch remained undetected. The vehicle was eventually repossessed for sale by auction. On bail and aware the drug had not been located he called the auction company a number of times, rousing suspicions. A drug detection dog inspected the vehicle and the package was discovered.</p> <p>Information from intercepted telephone calls revealed Chadburne expected to earn \$40,000- \$50,000 from the venture. It was also not the first occasion he had participated in the distribution of illicit drugs, having previously travelled to WA on behalf of the syndicate.</p> <p>The package of cocaine (ct 4) had an estimated street value of \$98,000 -</p>	<p>greater than in many of those cases [referred to]. He was an active member of the syndicate which brought the drugs into WA, whose involvement extended beyond the mere provision of transport. The appellant expected to obtain a significant financial reward from the activity.</p> <p>At [67] ... The circumstances of the ... offending, particularly that which was the subject of cts 4 and 5, increased the overall criminality of the appellant's conduct in a manner that warranted some accumulation of the sentences.</p> <p>At [68] ... The seriousness of [ct 4] was agg by the fact that these drugs were to be sold wholly for the appellant's personal benefit, and by the attempts after his arrest to regain possession of the drugs.</p> <p>At [69] ... Cumulacy of this sentence [ct 5] was called for in order to avoid the result that a person apprehended in the course of committing serious</p>
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			<p>\$206,000.</p> <p>Evidence at trial indicated an individual MDMA pill sold for \$15 - \$35, giving a potential value of the MDMA tablets discovered at between \$517,125.00 - \$1,206.625.00.</p>		<p>offences might refuse to comply with an order that will produce evidence of the offending without any practical adverse consequences ...</p> <p>At [70] The appellant's overall criminality is also agg by the substantial quantities of methyl and cocaine which were the subject of cts 2 and 3.</p>
21.	<p><i>The State of Western Australia v Doyle</i></p> <p>[2017] WASCA 207</p> <p>Delivered 08/11/2017</p>	<p>18-19 yrs at time offending.</p> <p>Convicted after PG (25% discount).</p> <p>Short criminal history; offences of poss MDMA; poss stolen or unlawfully obtained property and assault public officer.</p> <p>Born raised in Perth; one of four children.</p> <p>Supportive family.</p> <p>Paraplegic father; assisted him with dealing with his disability.</p> <p>Left school yr 10; commenced</p>	<p>Cts 1-14; 16-17; 19-23; 25-29; 31-32; 34-38; 40; 42-45; 47; 49-57; 61-64; 66; 68-69; 71-72; 74; 76-77 & 79: Offer to supply MDMA 3.3kg.</p> <p>Cts 15; 18; 24; 30; 33; 58-59; 65; 67; 70; 73 & 80: Offer to supply cocaine 31g.</p> <p>Cts 39; 46; 60 & 75: Offer to supply methyl 11.5g.</p> <p>Ct 48: Offer to supply GBH (aka fantasy) 8ml.</p> <p>Ct 78: Offer to supply cannabis.</p> <p>Cts 41 & 82: Failing to comply with data access order.</p> <p>Ct 81: Poss unlawfully obtained property.</p> <p>A search warrant was executed at Doyle's home. Illicit drugs and a</p>	<p>Cts 1-20; 22-31; 33-43; 45-46; 48-55; 57-61; 63-76; 78-82: 9 mths imp (conc).</p> <p>Ct 21: 12 mths imp (cum).</p> <p>Ct 32; 44 & 47: 12 mths imp (conc).</p> <p>Ct 56: 18 mths imp (head sentence).</p> <p>Ct 62: 18 mths imp (cum).</p> <p>Ct 77: 18 mths imp (conc).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the respondent was</p>	<p>Allowed.</p> <p>Appeal concerned length of sentences (cts 21, 32, 44, 47, 55-56, 62, 77 & 79) and totality principle.</p> <p>Re-sentenced on cts 21, 32, 44, 47, 55, 56, 62, 77 and 79.</p> <p>Cts 21; 32 and 47: 2 yrs imp.</p> <p>Cts 44; 55 & 79: 18 mths imp.</p> <p>Cts 56; 62 & 77: 3 yrs imp.</p> <p>Cts 56 (head sentence) and 62 cum; all other sentences conc with each other and with head sentence.</p>

		<p>apprenticeship.</p> <p>Illicit drug use; history of abusing ecstasy and cocaine. Using 20-30 ecstasy pills per week and in excess of 6g of cocaine per week at time offending.</p>	<p>Blackberry device were located.</p> <p>Approximately 10 mths later a search warrant was again executed at the respondent's home. Illicit drugs and items commonly associated with the sale and supply of illicit drugs, including electronic scales, controlled weapons and numerous mobile telephones, including two encrypted Blackberry telephones were seized.</p> <p>The respondent's phone was found to contain numerous text messages in which he offered to sell or supply illicit substances to various people on a regular basis over a period of approximately 18 months.</p>	<p>part of the commercial distribution of prohibited drugs into the community; he was involved in drug dealing on a commercial basis and the offending was pretty persistent and relentless.</p> <p>The sentencing judge found the respondent did not sell the offered prohibited drug in a significant number of the cts. However there can be no suggestion that when he offered drugs for sale he didn't intend to sell them if he could have.</p> <p>Remorseful. Engaged in a drug programme and counselling to address his drug problems.</p>	<p>TES 6 yrs imp.</p> <p>EFP.</p> <p>At [35] ... Each offence was committed by the respondent as part of an ongoing and long-term business of supplying illicit drugs. The respondent's primary motive was to obtain money to fund the lifestyle he could not otherwise afford. While it must be accepted that each offer was not in fact fulfilled, this was only because his supplier would not extend him credit for such substantial quantities of MDMA. ... He clearly intended to effect each sale. It cannot be overlooked that each offer was not an isolated event.</p> <p>At [36] This court has not been previously called upon to decide whether an individual sentence for offering to sell or supply a prohibited drug is manifestly inadequate or manifestly excessive. Thus, there are no relevant comparable cases.</p> <p>At [38] ... each sentence is, when all relevant circ and all</p>
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				<p>relevant sentencing factors are considered, unreasonable or plainly unjust. ... Each sentence was substantially outside the sentencing range open to his Honour on a proper exercise of his discretion.</p> <p>At [41] The overall criminality involved in the offending was very serious. The respondent was engaged in the business of dealing with methyl, MDMA, cocaine, GBH and cannabis for profit and with the particular aim of promoting his lifestyle. ... about half of the offers resulted in the substance in question being sold or supplied.</p> <p>At [42] The appellant also twice defied data access orders. ... Offenders who fail to comply are obstructing law enforcement authorities from undertaking their role in detecting offences.</p> <p>At [43] ... a TES of 4 yrs imp falls a long way short of bearing a proper relationship to the overall criminality involved in the commission of all of the offences.</p>
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20.	<p><i>Goodwin v The State of Western Australia</i></p> <p>[2017] WASCA 184</p> <p>Delivered 12/10/2017</p>	<p>34 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (14% discount).</p> <p>Prior criminal history; including breaches of VRO and poss prohibited drug.</p> <p>Time spent in immigration detention after arrest for offences subject of appeal; assaulted and sustained significant injuries whilst in detention; ongoing surgery required.</p> <p>Born in UK, arrived in Australia in 2010.</p> <p>Married; separated after a short period due to illicit drug use.</p> <p>Good prospects of employment; stable accommodation and supportive family and friend in UK.</p> <p>History of illicit drug use; methyl addiction; drug free since taken into immigration detention.</p>	<p>25 x Offer to supply methyl 1g – 1.73g and 0.1 - 3.5g. 1 x Sold MDMA.</p> <p>Goodwin sent group text messages advertising the sale of methyl. Over 16 different days over a 69 day period he communicated with 12 separate individuals about supplying them with the drug.</p> <p>Goodwin took anti-detection measures by using four different telephone numbers.</p> <p>An UCO met with the appellant and arranged to purchase MDMA or ecstasy from him. The UCO subsequently purchased 20 tablets from him for \$600 (ct 6).</p>	<p>Cts 1-5; 8; 10-15; 20 & 25: 12 mths imp. Cts 6 & 9: 16 mths imp. Cts 7; 17-18 & 26: 14 mths imp. Cts 16; 19; 21-24: 6 mths imp.</p> <p>Cts 6 & 26 cum with each other, conc all other sentences.</p> <p>TES 2 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant had a considerable customer base and he was an active street-level dealer, at the mid-range, selling to end users.</p> <p>The sentencing judge found the appellant had not fully accepted responsibility for his offending and PGs were entered after numerous adjournments and delays.</p>	<p>Dismissed.</p> <p>Appeal concerned failure to account for time spent in immigration detention.</p> <p>At [26] ... her Honour was entitled to recognise and give credit for the time the appellant had spent in immigration detention by reducing the length of the individual sentences and the TES she would otherwise have imposed. ... her Honour did not make an error of fact or law by recognising and giving credit for the time the appellant had spent in immigration detention in the manner that she did, rather than backdating the TES.</p> <p>At [27] ... each individual sentence imposed on the appellant was appropriate having regard to the max penalty for the offence, the objective seriousness of the offence, the standards of sentencing customarily observed with respect to the offence, the place which the appellant's criminal conduct occupies on the scale of</p>
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					seriousness of offences of the kind in question, the appellant's personal circumstances and all other relevant sentencing factors ...
19.	<p><i>Franklin v The State of Western Australia</i></p> <p>[2017] WASCA 102</p> <p>Delivered 01/06/2017</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Supportive family and girlfriend.</p> <p>Left school yr 10; recently commenced tertiary studies.</p> <p>Good employment history; started apprenticeship; before working manual labour positions.</p> <p>History of drug use; commenced aged 15 yrs; increased following relationship breakup.</p>	<p>Ct 1: Att poss of MDMA 1.91g. Ct 2: Att poss of MDMA 32g at 29% purity. Ct 3: Poss MDMA wiss 3.26g at 87% purity. Ct 4: Att poss of MDMA 6.9g at 83-86% purity. Ct 5: Att poss of MDMA 33.7g at 25% purity.</p> <p>A parcel addressed to Franklin was identified at an Australia Post mail centre. It contained approx 100 MDMA tablets. These tablets were substituted with an inert substance (ct 2).</p> <p>Two days later two further parcels addressed to Franklin were identified. One parcel contained a quantity of MDMA powder (ct 1).</p> <p>The same day Franklin attended the post office and collected all three parcels. He was arrested and conveyed to his home address. A search of his home located a further quantity of MDMA powder (ct 3).</p>	<p>Ct 1: 4 mths imp (conc). Ct 2: 3 yrs imp (cum). Ct 3: 6 mths imp (cum). Ct 4: 15 mths imp (conc). Ct 5: 3 yrs imp (conc).</p> <p>TES 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge noted the quantity and purity of the drugs; found the appellant intended to both supply his friends and to 'make money' and the offending too serious to permit suspension of the terms.</p> <p>Cooperative; remorseful; positive prospects for rehabilitation.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of individual sentences on cts 2 and 5 and totality.</p> <p>At [30] The appellant's overall offending was serious. The appellant conducted a calculated and well-organised drug dealing enterprise. While the scale of the appellant's enterprise was relatively small by comparison to other cases ... it was by no means insignificant and was calculated to, in part, make a profit.</p> <p>At [31] The appellant sourced MDMA in both tablet and powder form ... to protect his identity. He did so in small batches and had then sent to a post office box. Both of these measures were taken to avoid detection. ... it was of a very high purity and had the potential to be cut further for distribution</p>

			<p>Meanwhile a further search of the mail centre identified another parcel addressed to Franklin. This parcel contained a quantity of MDMA powder (ct 4).</p> <p>The following day another package addressed to Franklin was found. The package contained approx 100 yellow banana-shaped MDMA tablets (ct 5).</p> <p>Franklin admitted he would share the drugs with friends and would sell some to fund his own use and that he purchased illegal items, including drugs, over the dark net.</p>		<p>... The pills could not be said to be of low purity.</p> <p>At [32] While the appellant cannot be sentenced for uncharged offences, it is clear from his admissions ... that the offences for which he was charged and convicted were not isolated occurrences.</p>
18.	<p><i>The State of Western Australia v Nillson</i></p> <p>[2017] WASCA 68</p> <p>Delivered 18/04/2017</p>	<p>23 yrs at time offending. 24 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history. This offence was the first serious offending.</p> <p>Previously of good character.</p> <p>Supportive family.</p> <p>Excellent work history until made</p>	<p>Ct 1: Att poss of methyl 129g at 77% purity. Ct 2: Poss methyl wiss 121.41g at 47-81% purity. Ct 3: Poss MDMA wiss 9.74g. Ct 4: Poss cannabis wiss 96.9g. Cts 5 & 10: Poss unlawfully obtained money. Ct 6: Poss methyl wiss 127.24g at 68-74% purity. Ct 7: Poss 25C-NBOMe wiss 7.74g. Ct 8: Poss MDA wiss 0.84g. Ct 9: Poss MDMA wiss 0.37g.</p> <p><u>Ct 1</u></p>	<p>Ct 1: 30 mths imp (cum). Ct 2: 30 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 2 yrs imp (cum). Ct 7: 9 mths imp (conc). Ct 8: 3 mths imp (conc). Ct 9: 3 mths imp (conc). Ct 10: 12 mths imp (conc).</p> <p>TES 4 yrs 6 mths imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences for cts 1, 2 and 6, and totality.</p> <p>Nillson re-sentenced on cts 1, 2 and 6 only:</p> <p>Ct 1: 4 yrs 6 mths imp (cum). Ct 2: 4 yrs 6 mths imp (conc). Ct 6: 2 yrs imp (reduced from 4 yrs 6 mths imp for totality reasons) (cum on ct 1).</p>

		<p>redundant.</p> <p>Drug user following redundancy; drug dealing to fund habit and lifestyle.</p> <p>Determined efforts at rehabilitation while remanded in custody.</p>	<p>Police inspected an envelope containing methyl which was addressed to James Willson at a post office box registered to Nillson. Police replaced the methyl with an inert substance and the envelope was delivered to Nillson's post office box. Nillson collected the envelope and returned home.</p> <p><u>Cts 2-5</u> Later that day, police executed a search warrant at Nillson's address and found Nillson attempting to dispose of the inert substance in the shower.</p> <p>Police found 26 containers of methyl ranging from 0.05g to 32.7g (ct 2), 8.52g of MDMA and 5 MDMA pills weighing 1.22g (ct 3), cannabis (ct 4), \$23,635 cash (ct 5), unused clipseal bags and plastic containers, digital scales, a brass weight, a tick list and approx. 200g of cutting agent.</p> <p><u>Cts 6-10</u> Police searched Nillson's car at a self-storage unit and found 16 containers of methyl (ct 6), 25C-NBOMe (ct 7), MDA (ct 8), MDMA (ct 9), \$12,150 cash (ct 10), unused</p>	<p>Sentencing judge found Nillson to be an active retail and midlevel drug dealer and the sole proprietor of the drug dealing business; there was evidence of a very organised, large-scale polysubstance drug dealing operation; Nillson's culpability was high; the set-up pointed to widespread retailing and deep market penetration and that Nillson must have been an important player in the Geraldton drug distribution business.</p> <p>Sentencing judge found good prospects of rehabilitation and that Nillson would not reoffend in a similar way.</p> <p>Remorse and acceptance of responsibility.</p>	<p>TES 6 yrs 6 mths imp.</p> <p>Other sentences and orders remain.</p> <p>At [32] The sentencing judge was...mistaken in concluding that there had been a softening of approach... such a conclusion was not one that could ordinarily be reached on the basis of an inference drawn from a comparison of three cases and it was not one that could be reached in this instance, not least because it was based upon an erroneous analysis of those cases.</p> <p>At [35] The offending...was very serious. The respondent was aptly described by the sentencing judge as the sole proprietor of a 'very organised, large-scale polysubstance drug dealing operation'. The amount of methyl involved in each of cts 1, 2 and 6 was substantial and at a high level of purity. The drug dealing was a commercial operation carried on for profit to fund both the respondent's drug habit and his lifestyle, in</p>
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			clipseal bags, digital scales and cutting agent.		circumstances where... the respondent was 'overwhelmed with greed' ... Apart from the PG...the only mitigating factor was the respondent's favourable personal circumstances, which was not a factor of great weight in the context of the offending.
17.	<i>Rinaldi v The State of Western Australia</i> [2017] WASCA 48 Delivered 17/03/2017	37 yrs at time offending. 39 yrs at time sentencing. Very late PG (5% discount). Minor criminal history. Traumatic childhood; supportive family. Left school midway through yr 11. Obtained a trade; good employment history and strong work ethic. History of illicit drug use; escalated after his marriage break down.	Ct 1: Poss MDMA wiss 888.01 grams of 25%-73% purity. Ct 2: Poss methyl wiss 1650.67g of 45%-77% purity. Ct 3: Poss cocaine wiss 7.29g of 68% purity. Cts 4-17: Poss firearm. Cts 18-38: Poss ammunition. Ct 39: Poss GPS jamming device. Police executed a search warrant at Rinaldi's home and discovered a 'wine cellar' accessible via a retractable trapdoor. The home was protected by a security system, comprising a steel reinforced front door, outside sensor lights and monitored CCTV cameras. Large quantities of drugs and ammunition, 14 unlicensed firearms and cash were found, along with the GPS jamming device. The unlicensed firearms comprised	Ct 1: 18 mths imp (reduced from 5 yrs for totality reasons) (cum). Ct 2: 8 yrs imp (cum). Ct 3: 2 yrs imp (conc). Ct 4: 18 mths imp (cum). Ct 5: 18 mths (conc). Cts 6, 8-11, 15-17: 12 mths imp (conc). Ct 7: 12 mths (cum). Ct 12: 14 mths imp (cum). Cts 13-14: 14 mths imp (conc). Cts 18, 21 and 31: 6 mths imp (conc). Ct 19: 8 mths imp (cum). Ct 20: 3 mths imp (conc). Ct 22-23: 2 mths imp (conc). Cts 24-25: 8 mths imp (conc). Cts 26-27 and 30: 3 mths imp (conc). Cts 28-29 and 32-33: 1 mths imp (conc).	Dismissed. Appeal concerned totality and PG discount. At [54] ... the sentencing judge did not err by failing to make a finding that the appellant's PG to cts 1-33 and ct 39 were entered at the first reasonable opportunity. Very plainly, they were not made at the first reasonable opportunity. ... The reduction of 5% was, in all of the circumstances, open to his Honour. At [55] ... in respect of the five ex officio charges (cts 34 to 38). ... the appellant's PG in respect of these cts were made at the first reasonable opportunity. This concession was properly made and should be accepted. In our opinion, a reduction of 25%

			<p>five rifles, one shotgun and eight handguns. Three of the weapons had their serial numbers removed and two of the rifles were unable to be lawfully owned in WA. Compatible magazines, silencers and shoulder holsters were also found in the house.</p> <p>In total 2,386 rounds of ammunition were found.</p> <p>\$337,220 in cash was found in bundles in various locations in the house, including in a washing machine and the roof cavity.</p>	<p>Ct 34-36: 3 mths imp (conc). Ct 37: 4 mths imp (conc). Ct 38: 2 mths imp (cum). Ct 39: \$1000 fine.</p> <p>TES 14 yrs imp. EFP. Fine \$1000.</p> <p>The sentencing judge described the premises as a 'fortified drug house' used for the purpose of storing and warehousing illicit drugs, firearms and cash. It was in a large scale distribution network for drugs and guns as part of an illegal, commercial enterprise and from which the appellant would have derived 'some commercial gain or benefit'.</p>	<p>... should have been made for these offences. However, having regard to all relevant circumstances ... exercising the sentencing discretion afresh, we would not have imposed different sentences for cts 34 to 38.</p> <p>At [66] ... the appellant's overall criminality was extremely serious. While... not directly involved in the sale of the drugs, firearms and ammunition, he voluntarily participated in what was clearly a large-scale commercial enterprise aimed at distributing into the community a large quantity of dangerous illicit drugs and firearms. The appellant's willing complicity in these offences is well illustrated by the modifications to his residence, most notably the wine cellar in which the drugs and most of the firearms and ammunition were stored. The large quantities of drugs, firearms, ammunition and cash show the scale of the operation. It is true that the appellant was not in command, but it is also true that a high degree of trust</p>
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					<p>had been reposed in him.</p> <p>At [67] A significant aggravating feature of the appellant's overall criminality are the firearms offences, which involve a quantity and variety of weapons not previously seen by this court. Their number and type are very sinister. The amount of ammunition, including ammunition suitable for use in the firearms present at the house, is concerning.</p>
16.	<p><i>Al-Rafei v The State of Western Australia</i></p> <p>[2017] WASCA 4</p> <p>Delivered 12/01/2017</p>	<p>23 yrs time of offence. 24 yrs time of sentencing.</p> <p>PG (15% discount).</p> <p>No prior criminal history.</p> <p>One of four sons; raised by his mother from aged 7 yrs following parents separation.</p> <p>Mother struggled financially.</p> <p>Educated to yr 12; obtained drafting certificate.</p> <p>In full time employment and had casual job at time of offending.</p>	<p>1 x Poss MDMA wiss 2.24kg of 23% purity.</p> <p>Al-Rafei and an acquaintance drove to a house and collected a chiller bag.</p> <p>A short time later his vehicle was stopped. On admitting he had illegal steroids the car was searched.</p> <p>Inside a gym bag was the chiller bag containing two large clipseal bags containing 10,281 tablets.</p>	<p>8 yrs 6 mths imp.</p> <p>The sentencing judge found the appellant's role was as a paid courier and the volume of the drugs involved made the offending very serious. He found the offending was purely for financial gain.</p> <p>Remorseful and good prospects of rehabilitation.</p>	<p>Dismissed.</p> <p>Appellant appealed length of sentence.</p> <p>At [22] ... the appellant's offending was appropriately described by the sentencing judge as 'very serious'. He must ... have been aware that he was facilitating a scheme to distribute a large quantity of illicit drugs into the community. That role of a courier is an important element in the dissemination of drugs into the community. ... The appellant's participation in that scheme as a courier was simply for his own</p>

		History of steroid use, but no other illicit drug or alcohol use.			commercial gain.
15.	<p><i>Barton v The State of Western Australia</i></p> <p>[2016] WASCA 196</p> <p>Delivered 18/11/2016</p>	<p>37 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior criminal history; multiple offences of poss prohibited drugs; no previous sentences of imp.</p> <p>Two long-term relationships, including a prior marriage.</p> <p>Self-employed; unlikely to be able to continue working as a mortgage broker.</p> <p>Illicit drug user.</p> <p>History of anxiety and ADHD; prescribed medication.</p>	<p>Cts 1 & 2: Poss stolen property.</p> <p>Ct 3: Poss methyl wiss 33.6g of 68% purity and 25.4% purity.</p> <p>Ct 4: Poss MDMA wiss 5.57g.</p> <p>Ct 5: Poss cocaine wiss 6.29g of 69% purity.</p> <p>Ct 6: Poss methyl wiss 5.6g.</p> <p>Ct 7: Poss thing reasonably suspected to be unlawfully obtained.</p> <p>Ct 8: Poss methyl wiss 61.46g of 82% and 81% purity.</p> <p>Police recovered from Barton's home two stolen iPads (cts 1 & 2). A search located two clipseal bags containing 26.7g and 6.9g of methyl (ct 3), along with 23 MDMA tables and power (ct 4). In addition 5.24g and 1.05g of cocaine were found (ct 5).</p> <p>Barton was on bail for the above offences when he was stopped driving a vehicle. A search of the car located a quantity of methyl (ct 6); \$1,185 in cash (ct 7) and two mobile phones containing messages relating to prohibited drugs. A further search of his home located two clipseal bags, each containing 27.5g of methyl, and an additional 6.46g of</p>	<p>Cts 1 & 2: 6 mths imp each ct (conc).</p> <p>Ct 3: 2 yrs 7 mths imp (conc).</p> <p>Ct 4: 10 mths imp (conc).</p> <p>Ct 5: 10 mths imp (conc).</p> <p>Ct 6: 10 mths imp (conc).</p> <p>Ct 7: 6 mths imp (conc).</p> <p>Ct 8: 3 yrs 3 mths imp (cum with ct 3).</p> <p>TES 5 yrs 10 mths imp.</p> <p>The sentencing judge found the appellant was a willing and motivated vendor of drugs into the community and his offending was for 'commercial gain' based on the presence of the tick lists, cash and phone messages.</p> <p>The appellant accepted responsibility for his offending and was addressing his drug addiction.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [38] ... the appellant's drug dealing offences were, no doubt, serious. ... The quantity and purity of the drugs the subject of cts 3 and 8 were significant.</p> <p>At [43] ... it was necessary, in order properly to mark the appellant's overall criminality in committing eight offences on two disparate occasions, to accumulate the individual sentences for cts 3 and 8.</p>

			methyl (ct 8). Digital scales, plastic straw scoops, spoons, clipseal bags in various sizes and 'tick lists' were also located.		
14.	<p><i>Santos v The State of Western Australia</i></p> <p>[2016] WASCA 107</p> <p>Delivered 29/06/2016</p>	<p>41 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history, including drug convictions.</p> <p>Engaged in the cultivation of cannabis at time of offending and later sentenced to a term of imp in NSW for this offence.</p> <p>Resident of NSW.</p> <p>An undischarged bankrupt at time offending.</p> <p>Co-offender Micalizzi sentenced to TES 15 yrs imp. EFP.</p>	<p>Ct 1: Poss MDMA wiss 8kg of 23-26% purity.</p> <p>Ct 2: Poss methyl wiss 22kg of 8-12% purity.</p> <p>Santos piloted a light plane from NSW to WA. His only passenger, the co-offender. Stowed in the cargo hold of the aircraft was a quantity of MDMA and methyl which Santos and the co-offender were jointly transporting from Sydney to Perth, as part of a larger drug distribution enterprise.</p> <p>Shortly after landing in WA the aircraft was intercepted and searched and the drugs located.</p> <p>Santos was found in possession of just over \$9,000 in cash and two mobile phones not in his name.</p>	<p>Ct 1: 13 yrs imp (conc).</p> <p>Ct 2: 15 yrs imp (conc).</p> <p>TES 15 yrs imp. EFP.</p> <p>The sentencing judge found the appellant's role as 'critical to the enterprise'. Despite having committed drug-related offences in the past, he was prepared to fly an aircraft, aware that illicit drugs were on board.</p>	<p>Dismissed.</p> <p>Appellant appealed length of sentence and challenged under parity and totality principle.</p> <p>At [45] As the learned sentencing judge recognised, there were differences in the roles played by the appellant and Mr Micalizzi in the commission of the offences. He regarded the role played by Mr Micalizzi as being more important than that played by the appellant. By itself, that may have justified Mr Santos receiving lesser sentences. However, the appellant's antecedents are worse than Mr Micalizzi's.</p> <p>At [52] ... the TES, including the sentence imposed in NSW, was proportionate to the criminality involved in all of the offences, viewed in their entirety and having regard to the circumstances of the case, including those referable to the</p>

					appellant personally.
13.	<p><i>Stokes v The State of Western Australia</i></p> <p>[2016] WASCA 87</p> <p>Delivered 31/05/2016</p>	<p><u>Stokes</u> 23 yrs at time offence. 24 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>Short criminal history in Ireland and Western Australia.</p> <p>Irish national. Strong parental and family support.</p> <p>Diagnosed with ADHD as a child for which he was medicated.</p> <p>Educated to Year 11.</p> <p>Problems with illicit substance use and a heavy drinker.</p> <p><u>Busher</u> 25 yrs at time offence. 26 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>No prior criminal history.</p> <p>Irish national. Large close-knit family.</p>	<p>Ct 1: Poss MDMA wiss 80.9g of 44%-45% purity, Ct 2: Att poss MDMA wiss 115.8g of 44%-47% purity Ct 3: Poss alpha-PVP wiss 993g of 5%-6% purity</p> <p>Stokes and Busher were jointly charged.</p> <p>Stokes leased a private post box, its sole purpose for the delivery of drugs. A number of parcels containing illicit drugs were delivered to the post box. On each occasion Stokes was paid to collect the parcels and deliver them.</p> <p>A package containing 468 MDMA tablets was delivered to the post box. The package was intercepted by police and the MDMA was replaced with an inert substance (ct 2).</p> <p>A week later another two packages were delivered to the post box. One contained 329 MDMA tablets (ct 1) and the other alpha-PVP (ct 3).</p> <p>Busher and two others attempted to collect the parcels, but were unable</p>	<p><u>Stokes</u> Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 5 yrs imp (cum).</p> <p>TES 8 yrs imp. EFP</p> <p><u>Busher</u> Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum) Ct 3: 2 yrs 2 mths imp (cum).</p> <p>TES 5 yrs 2 mths imp. EFP</p> <p><u>Stokes</u> The sentencing judge found he played a very important role by leasing the post box and that the operation was “sophisticated” and “well organised”.</p> <p><u>Busher</u></p>	<p>Allowed.</p> <p>Appellants challenged length of sentence.</p> <p>Mr Stokes resentenced to: Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 3 yrs imp (cum).</p> <p>TES 6 yrs imp. EFP.</p> <p>Mr Busher resentenced to: Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (cum). Ct 3: 2 yrs imp (cum).</p> <p>TES 4 yrs imp. EFP.</p> <p>At [59] There is no evidence that Mr Stokes played any role in planning, organising, or orchestrating the offences.</p> <p>At [60] ... nor that he was to be involved in their ultimate sale or supply into the community.</p> <p>At [62] ... the enterprise in which Mr Stokes played a role involved large quantities of</p>

		<p>Qualified tradesman with good work record.</p> <p>No problems with alcohol or illicit substances.</p>	<p>to do so.</p> <p>Later that day Busher collected the packages using a false driver's licence as identification.</p>	<p>The sentence judge described his involvement as a "one-off out of character aberration, somewhat opportunistic in nature". He willingly and persistently took part in the offences and must have appreciated he was being asked to pick up a valuable shipment of drugs.</p>	<p>dangerous drugs being distributed into the community. Mr Stokes' willing provision of a post box to which packages containing illicit drugs were sent was an important, if not crucial, link in the distribution chain. The offending was not a "one-off" event or a momentary aberration.</p> <p>At [79] Mr Busher's criminality was less than that of Mr Stokes. Nevertheless, he willingly played an important role in the offences with a considerable degree of persistence, and was motivated by financial gain. Without his involvement, the packages containing the illicit drugs could not have reached those who intended to distribute them into the community.</p>
12.	<p><i>Bailey v The State of Western Australia</i></p> <p>[2016] WASCA 10</p> <p>Delivered 13/01/2016</p>	<p>32 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No relevant criminal history.</p> <p>Experienced significant trauma as a child and adult.</p> <p>No settled employment.</p>	<p>1 x Poss MDMA wiss 4.46g of 31% purity (18 tablets).</p> <p>The appellant's vehicle was stopped and searched by police. Police found 18 white tablets inside the appellant's wallet. The appellant admitted that the drugs were his. The appellant's mobile contained text messages related to drug dealing.</p>	<p>16 mths imp.</p> <p>Sentencing judge found at the relevant time the appellant was involved in the sale and supply of drugs of a high order.</p>	<p>Dismissed – on papers.</p> <p>Appellant challenged type, not length, of sentence.</p> <p>At [16]... it does not fall within the exceptional category. The appellant possessed the MDMA in part to distribute it into the community. There was an aspect</p>

		Long history of drug use.	The appellant initially denied intent to sell or supply. However, later made admissions that he intended to sell a portion of the tablets and use some himself.		<p>of commerciality to the offence. The sale of the tablets would have funded the purchase of more illicit drugs. It was not a 'one-off' event; rather, it occurred in the context of other drug dealing.</p> <p>At [17]... given the significant weight that must be given to general deterrence... the efforts the appellant has taken towards his rehabilitation do not bring the case within the exceptional category.</p>
11.	<p><i>Hughes v The State of Western Australia</i></p> <p>[2015] WASCA 164</p> <p>Delivered 24/08/2015</p> <p>Co-offender of</p> <p><i>Guler v The State of Western Australia</i> [2014]</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No relevant criminal history.</p> <p>Two children from prior relationship; educated to yr nine.</p> <p>Owens a struggling roofing business.</p> <p>Co-offender Rizeq convicted after trial and sentenced to TES 10 yrs imp.</p>	<p>Ct 1: Poss MDMA wiss 509g of 18% purity (2,035 tablets).</p> <p>Ct 2: Poss methyl wiss 403ml of 80% purity.</p> <p>The appellant organised and coordinated an operation for the drugs to be driven from Sydney to Perth.</p> <p>In Sydney, Hughes secreted the drugs in the compartment of the bull bar of the vehicle, along with 1.063kg of the cutting agent MSM. Rizeq prepared the vehicle mechanically. Guler assisted in re-installing the bull bar on the vehicle.</p>	<p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 9 yrs imp (cum).</p> <p>TES 12 yrs imp.</p> <p>Sentencing judge found that the appellant hid the drugs in the bulbar; knew the exact composition of the drug consignment; had ready access to a significant commercial supply of prohibited drugs; and was in sole executive control of the enterprise.</p> <p>Sentencing judge found</p>	<p>Dismissed.</p> <p>At [9] The liquid methyl would have been further processed and mixed with the MSM and was capable of producing at least a kilogram of good user-level methyl.</p> <p>At [83] Mr Hughes' involvement in, and culpability for, the offending was the highest of all the co-offenders.</p> <p>At [92] The individual sentences and the TES imposed on Mr Hughes are broadly consistent with the sentences customarily</p>

	WASCA 83	<p>Co-offender Guler convicted after early PG and sentenced to TES 8 yrs imp.</p> <p>Co-offender Sumner convicted after late PG and sentenced to TES 6 yrs imp.</p>	<p>Guler and Sumner drove the vehicle from Sydney to Perth. Hughes and Rizeq flew to Perth and stayed at a hotel.</p> <p>Police executed search warrants at the hotels that the appellant and his co-offenders were staying. They seized the vehicle and found the drugs and MSM in the bull bar.</p>	<p>that the appellant was the organiser, coordinator and entirely autonomous leader and principal of the operation.</p> <p>Sentencing judge found that the appellant was at a high risk of reoffending in a similar way.</p>	imposed in this jurisdiction.
10.	<p><i>Sathitpittayayudh v The State of Western Australia</i></p> <p>[2015] WASCA 152</p> <p>Delivered 04/08/2015</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal history, including convictions for poss prohibited weapons, drugs and explosives.</p> <p>Born in Thailand; parents separated when aged three; raised by paternal grandmother until age 11; travelled to Australia at age 11 to join his mother.</p> <p>Completed school to yr 11; completed civil engineering course at TAFE and computer engineering.</p> <p>Worked as courier driver and powder coater.</p> <p>History of illicit drug use,</p>	<p>Ct 1: Supply methyl 27.8g. Ct 2: Poss handgun, whilst not being the holder of a licence or permit. Ct 3: Poss methyl wiss 358g. Ct 4: Poss MDMA wiss 71.6g.</p> <p><u>Ct 1</u> The appellant supplied Evans with approx. 27.85g of methyl. Later that day Evans sold the drugs to an UCO for \$12,000. Some of that cash formed part of approx. \$600,000 located during a search of a property owned by the appellant's parents.</p> <p><u>Cts 2-4</u> Police executed a search warrant at the appellant's house and located a loaded .32 calibre Beretta handgun. The appellant made some admissions regarding poss and ownership of the gun.</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 12 mths imp (cum). Ct 3: 7 yrs imp (cum). Ct 4: 3 yrs imp (conc).</p> <p>TES 11 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge found appellant was involved in commercial drug dealing and in the upper half of the pyramid of drug trafficking criminality, at quite a high level.</p>	<p>Allowed.</p> <p>TES set aside.</p> <p>Resentenced to: Ct 1: 3 yrs imp (conc). Ct 2: 12 mths imp (cum). Ct 3: 7 yrs imp (cum). Ct 4: 2 yrs 6 mths imp (cum).</p> <p>TES 10 yrs 6 mths imp.</p> <p>At [26] ...the sentencing judge made a factual error when including ct 4 in comments regarding lateness of the plea.</p> <p>At [27]... the appellant was caught red-handed and the prosecution case against him in respect of cts 2 to 4 was very strong. In these circumstances an appropriate discount for ct 4</p>

		including cannabis, methyl and MDMA; admitted to dealing commercially.	Police also located 245g of methyl of more than 50% purity in a glass Pyrex tray, 113g methyl in a large cipseal bag and 71.6g of MDMA rolled up inside a newspaper.		is 20%. At [36]-[39] Discussion of comparable cases. At [40] Whilst the other cases referred to involved larger quantities of methyl this needs to be seen in the context that the appellant admitted he was involved in commercial dealing in the drug... In these circumstances the methyl and MDMA located at his premises ... must be viewed as merely his stock in trade. Whilst he is not to be punished on the basis that he had more than this amount in his poss cts 3 and 4 need to be seen in the context of a continuing commercial enterprise. It was clear that the appellant was a principal in this enterprise and that it was a highly successful one.
9.	<i>MSO v The State of Western Australia</i> [2015] WASCA 78 Delivered	Convicted after PG. Favourable antecedents.	<u>Indictment</u> Ct 1: Poss methyl wiss 10.54kg of 46-75% purity. Ct 2: Poss heroin wiss 2.46kg of 41-59% purity. Ct 3: Poss cocaine wiss 599g of 52-62% purity. Ct 4: Poss MDMA wiss 1.09kg of 5-	<u>Indictment</u> Ct 1: 8 yrs 3 mths imp. Ct 2: 7 yrs 6 mths imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 6 yrs imp (conc). <u>Section 32 Notice</u>	Dismissed. At [28] ...the judge viewed the appellant's conduct as extremely serious, because the appellant played an integral role in the success of what was obviously a sophisticated large-scale drug

	14/04/2015		<p>10% purity.</p> <p><u>Section 32 Notice</u> Poss stolen or unlawfully obtained property x1.</p> <p>The appellant provided warehousing and related services to two drug traffickers, A and B, for one year from his legitimate retail business. The appellant collected, weighed, checked, stored, made up orders and delivered drugs on behalf of A and B as instructed by coded text messages. The appellant, when instructed, added cutting agents to the drugs supplied to him on behalf of B and then repackaged the resulting product. The appellant was paid in cash for his services.</p> <p><u>Ct 1</u> Police found a total of 10.54kg of methyl in 18 packages. Each package ranged in size from between 26.6g and 575g and 1kg, of 46%-75% purity. Police also found scales, clip seal bags, cutting agent, heat sealing equipment and an envelope with handwritten names and quantities on it. Street value was estimated at \$4.7-\$5.2 million (if sold in 28g lots) and at \$10.5 million (if sold in 0.1g lots).</p>	<p>12 mths imp (conc).</p> <p>TES 8 yrs 3 mths imp.</p> <p>EFP.</p> <p>Sentencing judge found that motivation for offending was a combination of beliefs arising from B's implied threat and a desire to make a significant financial gain.</p> <p>Remorseful; fully accepted responsibility for conduct; low risk of reoffending.</p> <p>Letter of recognition; appellant provided very substantial assistance.</p>	<p>distribution network.</p> <p>At [69] Although it is common to speak of discounts for cooperation with authorities in terms of percentages, as Gleeson CJ observed in <i>R v Gallagher</i>, the court must have regard to the TES imposed after the discount so as to ensure that the sentence is not so far out of touch with the circumstances of the offending conduct that it...would contravene the requirement of s 6(1) of the <i>Sentencing Act</i> which requires the sentence imposed on an offender to be commensurate with the seriousness of the offence.</p> <p>At [70] In this case the appellant received a reduction in the sentence that would otherwise have been imposed upon him of 8 yrs and 3 mths in recognition of the assistance which he provided to law enforcement agencies. On any view, that is a very substantial discount.</p>
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			<p><u>Ct 2</u> Police found three packages of heroin, two of which were a little under 1kg with 41% purity and the third containing a little less than 500g with 59% purity. Street value was estimated at \$1.1 million (if sold in 1 oz lots) and \$1.2-\$2.5 million (if sold in 0.1g lots).</p> <p><u>Ct 3</u> Police found three packages containing 109g of cocaine of 52% purity, 190g of cocaine of 56% purity and 300g of cocaine of 62% purity, respectively. Street value estimated at \$450,000 (if sold in 1g lots) and \$214,000 (if sold in 1 oz lots).</p> <p><u>Ct 4</u> Police found 3,815 ecstasy tablets, which belonged to B and had been at the factory for a year. They ranged in purity between 5% and 10%. Street value estimated at \$152,600 (if sold individually) and \$53,000-\$57,000 (if sold in lots of 1,000).</p> <p><u>Section 32 Notice</u> Police found \$232,000 cash during the search.</p>		
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			The appellant cooperated fully with police.		
8.	<p><i>Davies v The State of Western Australia</i></p> <p>[2015] WASCA 14</p> <p>Delivered 22/01/2015</p>	<p>41 yrs at time sentencing.</p> <p>Conviction after late PG – TOI to resolve dispute as to appellant’s role.</p> <p>No relevant criminal history.</p> <p>Born in Western Australia; lives with wife in Melbourne.</p> <p>Co-offender Rogers charged with supply MDMA. Convicted after PG and sentenced to 2 yrs imp susp 2 yrs with supervision and programme conditions.</p> <p>Co-offender Mellican charged with 2 x poss MDMA, poss LSD and cultivate cannabis. Convicted after PG and sentenced to 2 yrs 9 mths for poss 940 MDMA tablets. TES 4 yrs 9 mths imp.</p> <p>Co-offender Gok charged with supply MDMA. Convicted after trial and sentenced to 3 yrs imp.</p>	<p>1 x Supply MDMA 246g of 10-16% purity (940 tablets).</p> <p>Between 28 June and 3 July 2012 the appellant made arrangements to supply Mellican with a quantity of MDMA. The appellant lived in Melbourne and Mellican lived in Perth.</p> <p>The appellant asked Gok, a friend in Perth, to arrange for the MDMA to be delivered to Mellican. Gok arranged for Rogers to make the delivery. Gok asked the appellant whether he needed him to collect payment for the drugs and the appellant responded that this was ‘sorted’.</p> <p>On 3 July 2012, police observed Rogers and Mellican meet in a car park. After Rogers left, police arrested Mellican in poss of 940 MDMA tablets. The appellant subsequently flew to Perth and was arrested on 22 August 2012.</p> <p>The appellant maintained that his role was limited to coordinating the</p>	<p>3 yrs imp.</p> <p>EFP.</p> <p>Treated Mellican and the appellant as equals in drug dealing hierarchy.</p>	<p>Dismissed – on papers.</p> <p>At [30] The differences between the sentences imposed on the appellant and the co-offenders were justified by their different circumstances.</p> <p>At [36] Even taking the most beneficial view of the circumstances it is difficult to see how the appellant could have deserved more than the 10% discount that the sentencing judge granted him.</p>

			<p>arrangement for the supply of the drugs. He denied having any ownership interest in the drugs. He claimed Gok was the principal offender. Judge found at TOI that the appellant planned and organised the supply of drugs for his own commercial benefit. The appellant's DNA was on outer wrapping of one parcel containing MDMA. On the basis of telephone intercept material, the judge concluded that the appellant discussed quality, price and volume of the drugs with Mellican. The appellant exercised a degree of control over Gok.</p>		
7.	<p><i>The State of Western Australia v Baldini</i></p> <p>[2015] WASCA 39</p> <p>Delivered 06/03/2015</p>	<p>19 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No prior criminal history.</p> <p>Had taken steps to rehabilitate before sentencing.</p> <p>Stable family support; good character; stable employment.</p> <p>Began using prohibited drugs at 16; engaged in gambling and excessive alcohol use at time offending.</p>	<p><u>Indictment</u></p> <p>Ct 1: Sell MDMA (65 tablets). Ct 2: Poss MDMA wiss 129.57g of 19-31% purity (490 tablets).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: Poss unlawfully obtained property.</p> <p>Police arrested respondent at a shopping centre after observing him leave his home address. Police searched him and seized \$600 cash and two mobile phones. One phone contained messages relating to sale of prohibited drugs and notes detailing money owed.</p>	<p><u>Indictment</u></p> <p>Ct 1: 12 mths imp (conc). Ct 2: 18 mths imp (conc).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: 3 mths imp (conc).</p> <p>TES 18 mths imp, susp on conditions 18 mths; \$4,000 global fine.</p> <p>Judge found respondent was a modest/street dealer; selling for commercial gain; profit would have been approx. \$5,000.</p>	<p>Allowed – conditional susp terms and fine set aside.</p> <p>TES 18 mths imp substituted.</p> <p>EFP.</p> <p>At [28] There can be no doubt that children and youths are well and truly in the target market of drug dealers.</p> <p>At [29] The application of accepted sentencing principles for the offences committed by the respondent leads to only one conclusion, being that a term of</p>

			<p>Search warrant executed at respondent's home. The respondent declared he was in possession of MDMA tablets and cash. He told police he purchased 500 MDMA tablets for \$16.50 each a week prior. He admitted he sold 65 MDMA tablets for \$30 each.</p> <p>Police found 490 MDMA tablets in respondent's bedroom inside locked box with clipseal bags, digital scales and \$3,200 cash. The respondent admitted poss of MDMA wiss and that some of the cash was from the sale of drugs.</p>	<p>Remorse; cooperated with police; on the road to rehabilitation; moderate risk of reoffending.</p>	<p>immediate imprisonment is the only appropriate sentencing option.</p> <p>At [30] The circumstances of the offending are towards the higher end of the scale of seriousness.</p> <p>At [39]-[46] Discussion of the residual discretion.</p> <p>At [45] ... the long accepted sentencing principles that apply to drug dealing offences...are not abandoned when it comes to the residual discretion stage.</p>
6.	<p><i>Jenkin v The State of Western Australia</i></p> <p>[2014] WASCA 226</p> <p>Delivered 04/12/2014</p> <p>Co-offender of <i>Pittard v The State of Western Australia</i> [2013]</p>	<p>29 yrs at time offending. 34 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Criminal history including drug-related convictions.</p> <p>History of substance abuse.</p> <p>After being charged stopped using illicit drugs; disassociated himself from adverse influences and resumed employment.</p> <p>Co-offender Forman charged with</p>	<p>Ct 1: Poss methyl wiss 54.8g of 20-21% purity. Ct 2: Poss MDMA wiss 58.7g of 23% purity.</p> <p>The appellant and another (Forman) were involved in the routine distribution of drugs in Geraldton for profit. The appellant had established a relationship with a drug dealer in Perth (Pittard).</p> <p>The appellant arranged for Pittard to supply Forman with methyl and MDMA. Forman drove from Geraldton to Perth, collected from</p>	<p>Ct 1: 5 yrs 6 mths imp. Ct 2: 6 mths imp (cum).</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Judge found appellant was involved in the planning and organising of the 'drug run' carried out by Forman, who acted at the appellant's direction.</p>	Dismissed.

	WASCA 126	<p>11 Cts on indictment and 6 Cts on s32 notice. PG to all and sentenced to TES 6 yrs imp. EFP.</p> <p>Co-offender Pittard charged with 2 x sell/supply methyl and MDMA and poss cannabis wiss. Convicted after trial and sentenced to TES 7 yrs imp. EFP.</p>	Pittard methyl and 199 MDMA tablets and returned to Geraldton. On his return he was stopped by Police who seized the drugs.		
5.	<p>Rossi v The State of Western Australia</p> <p>[2014] WASCA 189</p> <p>Delivered 21/10/2014</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p><u>Indictment 1182/12</u> Cts 1 & 3 accepted in full satisfaction of indictment.</p> <p><u>Indictment 790/13</u> Subject to negotiations 3, charges discontinued.</p> <p>Significant criminal history including AOBH, poss drugs, poss smoking utensil, stealing, traffic offences and breach of susp imp.</p> <p>Lengthy history of prohibited drug use.</p> <p>In a de facto relationship for 2 yrs.</p> <p>Diagnosed with systemic sclerosis</p>	<p><u>Indictment 1182/12</u> Ct 1: Possess methyl wiss 12.19g of 56% purity. Ct 3: Possess methyl wiss 48.91g of 0.3-82% purity.</p> <p><u>Section 32 notice 1182/12</u> Ct 1: Possess stolen or unlawfully obtained property. Ct 2: Possess unlawfully obtained property. Ct 3: Possess smoking utensil. Ct 4: Possess cannabis. Ct 5: Possess MDMA.</p> <p><u>Indictment 790/13</u> Ct 1: Offer to sell methyl 28g. Ct 2: Offer to sell methyl 1g. Ct 3: Sold methyl 6.98g of 44% purity. Ct 4: Offer to sell methyl 1g. Ct 5: Offer to sell methyl 3.5g. Ct 6: Offer to sell methyl 3.5g.</p>	<p><u>Indictment 1182/12</u> Ct 1: 2 yrs 2 mths imp (cum). Ct 3: 3 yrs 6 mths imp (head sentence).</p> <p><u>Section 32 notice 1182/12</u> Ct 1: 5 mths imp (conc). Ct 2: 7 mths imp (conc). Ct 3: 1 mth imp (conc). Ct 4: 1 mth imp (conc). Ct 5: 1 mth imp (conc).</p> <p><u>Indictment 790/13</u> Ct 1: 2 yrs 4mths imp (cum) Ct 2: 6 mths imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 9 mths imp (conc). Ct 6: 9 mths imp (conc).</p> <p><u>Section 32 notice 790/13</u></p>	<p>Dismissed.</p> <p>Discusses scope of s9AA <i>Sentencing Act, Criminal Procedure Act</i> and appearance framework.</p> <p>At [77] The appellant pleaded guilty at the fourth and fifth disclosure/committal hearing. The sentencing judge did not err by failing to make a finding that the appellant's pleas of guilty to the charges in Indictment 790 were entered at the first reasonable opportunity. They were not.</p> <p>At [87] The need for personal deterrence was a very weighty sentencing consideration for this case. The only significant mitigating factor was the appellant's plea of guilty. The</p>

		<p>and severe pulmonary arterial hypertension.</p> <p>Despite twice being arrested, charged and bailed the appellant continued to engage in drug dealing. Some of the offending occurred when he was on a suspended term of imprisonment.</p>	<p><u>Section 32 notice 790/13</u> Ct 1: Possess smoking utensil. Ct 2: Possess prohibited weapon. Ct 3: Possess methyl.</p> <p><u>Breach of CSIO</u> No authority to drive.</p> <p><u>Indictment 1181/12 & associated offences</u> Police executed a search warrant at the appellant's home and located methyl in a safe. Police also located cash, drug paraphernalia and a notepad recording the appellant's drug dealing activities. The appellant was arrested and released on bail. About 4 mths later police executed a search warrant where the appellant was residing. Methyl was located in the master bedroom. Police also found cash, two smoking implements with traces of methyl, a small quantity of cannabis, 1 MDMA tablet and drug paraphernalia.</p> <p><u>Indictment 790/13 and associated offences</u> Whilst on bail for those offences police intercepted calls where, with the exception of count 3, the appellant offered to sell methyl. In</p>	<p>Ct 1: 1 mth imp (conc). Ct 2: 1 mth imp (conc). Ct 3: 3 mths imp (conc).</p> <p><u>Breach of CSIO</u> 8 mths imp (conc).</p> <p>TES 8 yrs imp.</p> <p>Sentencing judge found was a 'significant operative in the commercial distribution of methyl in the community'.</p> <p>Accepted that offending was driven by drug addiction.</p> <p>Sentencing judge concluded that ill health of partner did not have any significant impact on the sentencing process.</p> <p>Head sentenced reduced for each offence by one half (12.5%) of the maximum allowed under s 9AA of the <i>Sentencing Act</i>.</p>	<p>sentencing judge was correct to conclude that any hardship to the appellant's partner should have no significant impact on the length of the sentence.</p>
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			<p>one instance the appellant sold 6.98g of methyl to another. The purchaser was stopped by police immediately after leaving the appellant's home. Police executed a search warrant at the appellant's house and located a smoking utensil, and a Taser disguised as a torch. The appellant had 0.5g of methyl in his pocket.</p> <p><u>Breach of CSIO</u> The appellant drove whilst disqualified/suspended for which a term of 8 mths susp for 12 mths was given. The commission of offences subject of Cts 5 & 6 in indictment 790/13 and associated s32 notice was a breach of this order.</p>		
4.	<p><i>Doherty v The State of Western Australia</i></p> <p>[2014] WASCA 142</p> <p>Delivered 06/08/2014</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history including some drug offences.</p> <p>Whilst on bail for possession of MDMA and methyl wiss the appellant committed Cts 3 – 6.</p> <p>Stable employment history.</p> <p>Commenced using methyl two years prior; soon began using on a</p>	<p>Ct 1: Possess MDMA wiss 6.84 grams of 19% purity.</p> <p>Ct 2: Possess methyl wiss 95.2 grams of 51-73% purity.</p> <p>Ct 3: Possess methyl wiss 16.03 grams of 48% purity.</p> <p>Ct 4: Agg possess firearm.</p> <p>Ct 5: Agg possess firearm.</p> <p>Ct 6: Agg possess firearm.</p> <p><u>Cts 1 & 2:</u> Police executed a search warrant at the appellant's house and found a carry bag in which were a number of</p>	<p>Ct 1: 12 mths imp.</p> <p>Ct 2: 3 yrs 9 mths imp (conc).</p> <p>Ct 3: 12 mths imp (cum).</p> <p>Ct 4: 6 mths imp (cum).</p> <p>Ct 5: 6 mths imp (conc).</p> <p>Ct 6: 6 mths imp (conc).</p> <p>TES 5 yrs 3 mths imp.</p> <p>Some remorse.</p>	<p>Dismissed – on papers.</p> <p>At [24] It is very difficult for an appellant to succeed on a ground that alleges that too little weight was given to a particular factor.</p> <p>At [25] Any delay between being charged and being sentenced is not, in itself, a mitigating factor. However, progress towards rehabilitation that occurs in such a period should be taken into account.</p>

		<p>daily basis.</p> <p>Significant steps taken to rehabilitate himself whilst in custody.</p> <p>Character references spoke well of the appellant.</p>	<p>clip seal bags containing methyl. The amounts ranged from 1.71 grams and 3.62 grams. Another larger bag contained 57.6 grams. The total quantity seized was 95.2 grams.</p> <p>Also located in the carry bag were four bags containing various quantities of MDMA. The total weight being 6.84 grams.</p> <p>Also located were a number of items indicative of drug dealing. They included two electronic digital scales, numerous unused clip seal bags, mobile telephones, SIM card packets and notebooks containing names and amounts.</p> <p><u>Cts 3 – 6</u> About six months later police again attended the appellant's house and conducted a search warrant. Police located two clip seal bags containing a total of 16.03 grams of methyl, \$7000 was also found together with a number of unused clip seal bags and a quantity of bulking agent, electronic scales, more clip seal bags, three mobile telephones and \$5420 cash.</p> <p>Police also located a number of</p>	<p>Appellant claimed drug use had caused him to incur a drug debt and he was pressured into selling drugs to repay the debt – Judge said that this was not a mitigating factor and did not lessen his culpability.</p> <p>Sentencing judge characterised offences as serious and as indicating a significant commercial enterprise.</p> <p>Only mitigating factor was that the appellant had pleaded guilty at an early stage.</p>	<p>At [27] Progress towards rehabilitation is a factor personal to an offender. Personal factors have less weight in regard to drug trafficking offences because of the importance of general deterrence.</p>
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			firearms.		
3.	<p><i>Zohdy v The State of Western Australia</i></p> <p>[2014] WASCA 141</p> <p>Delivered 06/08/2014</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Youngest of 4 children; close supportive family.</p> <p>In relationship with husband for 6 years.</p> <p>Suicide of brother related to use of illicit substances had a devastating effect on appellant.</p> <p>Mother died shortly before the appellant was sentenced.</p> <p>Amphetamine user.</p> <p>Husband had been a user of drugs and accumulated a significant debt. He had engaged in dealing in order to discharge his debt and had persuaded the appellant to help him.</p> <p>Husband faced additional charges, PG and sentenced to 5 yrs imp.</p>	<p>Ct 1: Sell MDMA 260 tablets. Ct 2: Sell MDMA 1000 tablets.</p> <p><u>Ct 1:</u> Over a two day period the appellant exchanged text messages and telephone calls with her husband (and co-offender). Her husband was working away. Arrangements were made for the appellant to receive a quantity of MDMA pills at her home address and then supply those pills to a third party.</p> <p>The appellant, having received 260 tablets, supplied them to another person at \$20 each pill. The appellant received \$5200.</p> <p><u>Ct 2:</u> About 15 days later the appellant exchanged text messages and telephone calls with her husband. Her husband was again working away. Arrangements were made for a further supply of MDMA. The appellant's husband arranged for 1000 MDMA pills to be delivered to the appellant at her home. Following instructions from her husband the</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 6 mths imp (conc).</p> <p>TES 2 yrs 6 mths imp.</p> <p>Evasive in ROI but subsequently co-operated with police and provided information.</p> <p>Judge accepted that she was partly driven by blind loyalty to her partner.</p>	<p>Dismissed – on papers.</p> <p>At [22] There was no suggestion that she was coerced or pressured into complying and the text messages show that she was ready to perform the role that her husband gave her.... That she may have been partly motivated by a wish to assist her husband in discharging his drug debt does nothing to mitigate the offences.</p>

			appellant supplied the 1000 tablets to a purchased for \$17 each. The total amount received was \$17000.		
2.	<p><i>Le v The State of Western Australia</i></p> <p>[2014] WASCA 120</p> <p>Delivered 13/06/2014</p>	<p>31 yrs at time offending. 33 yrs at time sentencing.</p> <p>Convicted after late PG (first day of trial).</p> <p>Extensive prior criminal history; including possess prohibited drugs wiss, possess prohibited drugs and carried a prohibited weapon.</p> <p>Family from Vietnam; appellant born in Australia.</p> <p>Childhood marred by domestic violence; parents later separated.</p> <p>Seven yr old daughter from previous relationship.</p> <p>Completed Year 12.</p> <p>Regularly employed in various occupations.</p> <p>Long history of illicit drug abuse; commenced using cannabis at 14 years; heroin at 18 yrs; methyl at 20 yrs; occasional user of ecstasy.</p>	<p>Ct 1: s19(1), 19(1ac) <i>Firearms Act</i> poss altered firearm W/O licence. Ct 2: Poss methyl wiss 16.46g of 78-85% purity. Ct 3: Poss cannabis wiss 14.7g. Ct 4: Poss MDPV wiss 6.64g. Ct 5: Poss methyl wiss 56.17g of 69-72%. Ct 6: Att poss MDMA wiss 46.65g. Ct 7: Poss cannabis wiss 55.3g. Ct 8: Poss methyl wiss 11.6g of 80%.</p> <p>The appellant's mother contact police after discovering a firearm and a bag containing white powder in his bedroom in her house. Police searched and discovered a 410 gauge shotgun with a shortened barrel; 16.46g of methyl; 14.7g of cannabis and 6.64g or MDPV, a derivative of methyl. Police also discovered \$36,000 cash in two shotgun cartridges. The appellant was arrested, charged and released on bail.</p> <p>The prosecution conceded that the firearm and drugs were owned by another person and that the appellant was holding them for that person.</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 4 mths imp. Ct 3: 6 mths imp. Ct 4: 18 mths imp. Ct 5: 4 yrs 2 mths imp. Ct 6: 2 yrs 4 mths imp. Ct 7: 12 mths imp. Ct 8: 2 yrs 6 mths imp.</p> <p>Ct 2 cum on Ct 5.</p> <p>All other sentences conc with Ct 5.</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The appellant had been engaging in the distribution of illicit drugs for at least a month before his second arrest.</p> <p>Sentencing judge accepted that Cts 1-4 the appellant had been acting as a bailee for a friend, he</p>	<p>Dismissed.</p> <p>At [42] s 6(1)(a) applies to a person who is in possession of a prohibited drug merely as a bailee for another.</p> <p>At [45] His primary motivation in dealing with the drugs was to repay a debt to the owner of the drugs seized during the first search.</p> <p>At [51] The appellant's role in relation to the drugs was important. He was concealing a significant quantity of an illicit drug on behalf of a person who wanted to distance himself from the drugs. The appellant knew the drugs were intended for distribution into the community.</p> <p>At [65] At two different times and in two different ways, the appellant was prepared to facilitate the dissemination into the community of substantial quantities of illicit drugs.</p>

			<p>Also conceded \$36,000 cash was the same owner and that the appellant was holding the cash for the owner.</p> <p>About six months later, police searched a house where the appellant as living with his girlfriend. Police located 56.17g of methyl; 14.65g of tablets which resembled MDMA but later analysis revealed they did not contain any illicit substances and 55.3g of cannabis.</p> <p>Later on that same day, police again searched the home of the appellant's mother and located 11.6g of methyl and other items associated with drug dealing.</p>	<p>had received no benefit for holding the firearm, drugs and cash.</p> <p>Judge accepted cts 5-8 that five men had demanded that the appellant repay the value of the property seized by the police (earlier charges) had threatened him and his family with violence if he did not comply.</p>	
1.	<p><i>Guler v The State of Western Australia</i></p> <p>[2014] WASCA 83</p> <p>Delivered 22/04/2014</p> <p>Co-offender of</p>	<p>28 yrs at time of offending.</p> <p>Convicted after early PG.</p> <p>NSW criminal history of no relevance.</p> <p>Qualified spray painter.</p> <p>Very good references.</p> <p>Not a user of illicit substances.</p> <p>Model prisoner whilst on remand.</p>	<p>Ct 1: Poss MDMA wiss – 509g of 18% purity (2,035 tablets).</p> <p>Ct 2: Poss methyl wiss – 403ml of 80% purity.</p> <p>The appellant was recruited for the operation several days before departing from Sydney.</p> <p>The appellant and two others drove from Sydney to Perth with the MDMA and methyl secreted inside the vehicle's bull bar, along with 1.063kg of the cutting agent MSM.</p>	<p>Ct 1: 2 yrs imp.</p> <p>Ct 2: 6 yrs imp (cum).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Deliberately lied in his record of interview, although did make some admissions to Police including he was promised \$5,000 for his efforts.</p>	<p>Dismissed.</p> <p>At [24] The venture was planned and well organised. The offence is a serious example of its type and the appellant bears substantial criminal culpability.</p> <p>At [25] Although the appellant has good antecedents and poses little or no risk of further similar offending, general deterrence remains a very important sentencing factor.</p>

	<i>Hughes v The State of Western Australia</i> [2015] WASCA 164		A search warrant was later conducted on a hotel the appellant and his co-offenders were staying where the drugs and MSM were found in the bull bar.	<p>Judge accepted was not principal offender and that offending was out of character.</p> <p>Purely motivated by commercial gain.</p> <p>Low risk of re-offending.</p>	At [37] The so-called one transaction rule is not a rule at all. It is a handy rule of thumb. It does not have to be applied whenever an offender commits a number of offences which form part of one transaction. In the context of drug offending, it will not necessarily be the case that an offender who is found in possession of a number of different types of drugs at the one time will receive wholly concurrent sentences.
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					